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.

SENATE ENROLLED ACT No. 287

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:

SECTION 1. IC 4-1-10-5, AS AMENDED BY SEA 127-2012, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 5. (a) A state agency may disclose the Social Security number of an individual if any of the following apply:

(1) The disclosure of the Social Security number is expressly required by state law, federal law, or a court order.

(2) The individual expressly consents in writing to the disclosure of the individual's Social Security number.

(3) The disclosure of the Social Security number is:

(A) made to comply with:

(i) the USA Patriot Act of 2001 (P.L. 107-56); or

(ii) Presidential Executive Order 13224; or

(B) to a commercial entity for the permissible uses set forth in the:

(i) Drivers Privacy Protection Act (18 U.S.C. 2721 et seq.);

(ii) Fair Credit Reporting Act (15 U.S.C. 1681 et seq.); or

(iii) Financial Modernization Act of 1999 (15 U.S.C. 6801 et seq.).

(4) The disclosure of the Social Security number is for the purpose of administration of a state agency employee's or the state agency employee's dependent's health benefits.

(5) The disclosure of the Social Security number is for the

C o p y

purpose of administration of:

(A) a pension fund administered by the board of trustees of the Indiana public retirement system;

(B) a deferred compensation plan or defined contribution plan established under IC 5-10-1.1;

(C) a pension plan established by the state police department under IC 10-12; ~~or~~

(D) the Uniform Commercial Code (IC 26-1) by the office of the secretary of state; **or**

(E) Title IV-D of the federal Social Security Act.

(b) A state agency's disclosure of the Social Security number of an individual in compliance with subsection (a) does not violate IC 5-14-3-4(a)(12).

SECTION 2. IC 4-13-19-5, AS ADDED BY P.L.182-2009(ss), SECTION 55, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 5. (a) The office of the department of child services ombudsman may receive, investigate, and attempt to resolve a complaint alleging that the department of child services, by an action or omission occurring on or after January 11, 2005, failed to protect the physical or mental health or safety of any child or failed to follow specific laws, rules, or written policies.

(b) The office of the department of child services ombudsman may also do the following:

(1) Take action, including the establishing of a program of public education, to secure and ensure the legal rights of children.

(2) Periodically review relevant policies and procedures with a view toward the safety and welfare of children.

(3) When appropriate, refer a person making a report of child abuse or neglect to the department of child services and, if appropriate, to an appropriate law enforcement agency.

(4) Recommend changes in procedures for investigating reports of abuse and neglect and overseeing the welfare of children who are under the jurisdiction of a juvenile court.

(5) Make the public aware of the services of the ombudsman, the purpose of the office, and information concerning contacting the office.

(6) Examine policies and procedures and evaluate the effectiveness of the child protection system, specifically the respective roles of the department of child services, the court, the medical community, service providers, guardians ad litem, court appointed special advocates, and law enforcement agencies.

(7) Review and make recommendations concerning investigative

C o p y

procedures and emergency responses contained in the report prepared under section 10 of this chapter.

(c) Upon request of the office of the department of child services ombudsman, the local child protection team shall assist the office of the department of child services ombudsman by

~~(1)~~ investigating and making recommendations on a matter. ~~or~~

~~(2) redacting or revising any report to be prepared for the complainant so that confidentiality laws are maintained.~~

If a local child protection team was involved in an initial investigation, a different local child protection team may assist in the investigation under this subsection.

(d) At the end of an investigation of a complaint, the office of the department of child services ombudsman shall provide an appropriate report as follows:

(1) If the complainant is a parent, guardian, custodian, court appointed special advocate, guardian ad litem, or court, the ombudsman may provide the same report to the complainant and the department of child services.

(2) If the complainant is not a person described in subdivision (1), the ombudsman shall provide a redacted version of its findings to the complainant stating in general terms that the actions of the department of child services were or were not appropriate.

(e) The department of child services ombudsman shall provide a copy of the report and recommendations to the department of child services. The office of the department of child services ombudsman may not disclose to:

(1) a complainant;

(2) another person who is not a parent, guardian, or custodian of the child who was **the** subject of the department of child services' action or omission; or

(3) the court, court appointed special advocate, or guardian ad litem of the child in a case that was filed as a child in need of services or a termination of parental rights action;

any information that the department of child services could not, by law, reveal to the complainant, parent, guardian, custodian, person, court, court appointed special advocate, or guardian ad litem.

(f) If, after reviewing a complaint or conducting an investigation and considering the response of an agency, facility, or program and any other pertinent material, the office of the department of child services ombudsman determines that the complaint has merit or the investigation reveals a problem, the ombudsman may recommend that the agency, facility, or program:

C o p y

(1) consider the matter further;
(2) modify or cancel its actions;
(3) alter a rule, order, or internal policy; or
(4) explain more fully the action in question.

(g) At the office of the department of child services ombudsman's request, the agency, facility, or program shall, within a reasonable time, inform the office of the department of child services ombudsman about the action taken on the recommendation or the reasons for not complying with it.

(h) The office of the department of child services ombudsman may not investigate the following:

(1) A complaint from an employee of the department of child services that relates to the employee's employment relationship with the department of child services.

(2) A complaint challenging a department of child services substantiation of abuse or neglect that is currently the subject of a pending administrative review procedure before the exhaustion of administrative remedies provided by law, rule, or written policy. Investigation of any such complaint received shall be stayed until the administrative remedy has been exhausted. However, if the administrative process is not completed or terminated within six (6) months after initiation of the administrative process, the office of child services ombudsman may proceed with its investigation.

(i) If the office of the department of child services ombudsman does not investigate a complaint, the office of the department of child services ombudsman shall notify the complainant of the decision not to investigate and the reasons for the decision.

SECTION 3. IC 5-22-2-31 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 31. "Social services" means services obtained from funds covered by ~~IC 12-13-10.~~ **IC 31-25-2-8.**

SECTION 4. IC 12-7-2-141.2 IS REPEALED [EFFECTIVE JULY 1, 2012]. ~~Sec. 141.2. "Planning council", for purposes of IC 12-14-26, has the meaning set forth in IC 12-14-26-1.~~

SECTION 5. IC 12-13-5-2, AS AMENDED BY P.L.130-2009, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 2. The division shall administer the following:

(1) A child development associate scholarship program.
(2) Any school age dependent care program.
(3) Migrant day care services.
~~(4) Prevention services to high risk youth.~~

C o p y

~~(5)~~ **(4)** The migrant nutrition program.

~~(6)~~ **(5)** The home visitation and social services program.

~~(7)~~ **(6)** The educational consultants program.

~~(8)~~ **(7)** Community restitution or service programs.

~~(9)~~ **(8)** The crisis nursery program.

~~(10)~~ **(9)** Social services programs.

~~(11)~~ **(10)** The step ahead comprehensive early childhood grant program.

~~(12)~~ **(11)** Any other program:

(A) designated by the general assembly; or

(B) administered by the federal government under grants consistent with the duties of the division.

SECTION 6. IC 12-13-7-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 9. (a) Money:

(1) received from the federal government by the treasurer of state to defray the expenses and pay the claims and obligations incurred in the administration of the federal Social Security Act;

(2) received from any other source; and

(3) that under IC 12-13 through IC 12-19 the division and county offices may collect, receive, and administer;

shall be paid into the respective funds or respective accounts of the state general fund.

(b) Money received under subsection (a) for the following population groups shall be deposited as follows:

(1) Old age assistance shall be paid into the old age assistance account.

(2) Services for dependent children shall be paid into the aid to dependent children account.

~~(3) Assistance in the promotion of child welfare services shall be paid into the child welfare services account.~~

~~(4)~~ **(3)** Assistance to the needy blind shall be paid into the needy blind account.

~~(5)~~ **(4)** Assistance to the needy permanently and totally disabled persons shall be paid into the needy disabled person account.

SECTION 7. IC 12-13-7-12, AS AMENDED BY P.L.234-2005, SECTION 26, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 12. (a) The division ~~and the department of child services~~ shall do the following:

(1) Prepare and submit to the state board of accounts for approval forms and records for assistance, receipts, disbursements, advancements, transfers, and other financial transactions necessary to administer IC 12-13 through IC 12-19.

C o p y

(2) Disclose financial transactions connected with subdivision (1).

(b) Upon the approval and adoption by the state board of accounts, the division ~~and the department of child services~~ shall prescribe the forms, records, and method of accounting for all counties.

SECTION 8. IC 12-13-10 IS REPEALED [EFFECTIVE JULY 1, 2012]. (Social Services).

SECTION 9. IC 12-13-15.2-1, AS AMENDED BY P.L.1-2005, SECTION 129, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 1. ~~Each county office of family and children~~ **The division of family resources** shall provide to the following entities in the county a list of dentists practicing in the county who provide dental services under the Medicaid program (IC 12-15) or the children's health insurance program (IC 12-17.6):

(1) Head Start programs (42 U.S.C. 9831 et seq.).

(2) Women, infants, and children nutrition programs (as defined in IC 16-35-1.5-5).

(3) Maternal and child health clinics (as defined in IC 16-46-5-5).

(4) The local health department.

(5) School nurses appointed under IC 20-34-3-6.

(6) Child care centers licensed under IC 12-17.2-4.

(7) The township trustees.

SECTION 10. IC 12-14-1-1.5, AS AMENDED BY P.L.161-2007, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 1.5. (a) This section does not apply if the:

(1) dependent child does not have a living parent or legal guardian;

(2) whereabouts of the dependent child's parent or legal guardian are unknown;

(3) dependent child lived apart from the child's parent or legal guardian for a period of at least one (1) year before either:

(A) the birth of the dependent child's child; or

(B) the dependent child's application for TANF;

(4) dependent child provides proof, and the division agrees, that the physical health or safety of the dependent child or a child of the dependent child would be jeopardized if the dependent child or a child of the dependent child resides with the dependent child's parent, legal guardian, or adult relative; or

(5) dependent child is less than eighteen (18) years of age and is not married, but the dependent child or a child of the dependent child:

(A) has been alleged or adjudicated a child in need of services under IC 31-34 (or IC 31-6 before its repeal); or

C o p y

(B) has been placed under the wardship or guardianship of the ~~county office.~~ **department of child services.**

(b) Except as provided in subsection (d), a dependent child who is less than eighteen (18) years of age and is:

(1) not married; or

(2) married but not residing with or receiving support from a spouse;

is entitled to assistance under TANF only if the dependent child and any children of the dependent child reside with a parent, a legal guardian, or an adult relative other than a parent or legal guardian of the dependent child. A legal guardian or an adult relative not listed in section 1(a)(2)(A) of this chapter must have custody of the child under a court order.

(c) The assistance for an eligible dependent child and each child of an eligible dependent child as described in subsection (b) shall be provided to the dependent child's parent, legal guardian, or other adult relative based on the eligibility of the parent, legal guardian, or other adult relative to receive assistance under TANF.

(d) This subsection applies to the parent of:

(1) a dependent child who has never married and who:

(A) has a child; or

(B) is pregnant; and

(2) a dependent child who has never married and is adjudicated to be the father of a child.

The parent of a dependent child described in subdivision (1) or (2) is financially responsible for the care of a child of the dependent child until the dependent child becomes eighteen (18) years of age.

SECTION 11. IC 12-14-26 IS REPEALED [EFFECTIVE JULY 1, 2012]. (Planning Councils).

SECTION 12. IC 12-14-29-7, AS ADDED BY P.L.92-2005, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 7. A court shall immediately notify the ~~county office of family and children:~~ **division of family resources local office:**

(1) upon the court's finding of probable cause that an individual has committed a felony offense during the period in which the individual is eligible for TANF or food stamps; or

(2) when an individual has been terminated from a reentry court program during the period in which the individual is eligible for TANF or food stamps.

SECTION 13. IC 12-15-8.5-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 5. (a) The office shall

C o p y

obtain a lien under this chapter by filing a notice of lien with the recorder of the county in which the real property subject to the lien is located. The notice shall be filed prior to the recipient's death and shall include the following:

(1) The name and place of residence of the individual against whose property the lien is asserted.

(2) A legal description of the real property subject to the lien.

(b) Upon the office's request, the county auditor or assessor of a county shall furnish the office with the legal description of any property in the county registered to the recipient.

(c) The office shall file one (1) copy of the notice of lien with the ~~county office of family and children~~ **division of family resources** in the county in which the real property is located. The ~~county office of family and children~~ **division of family resources** shall retain a copy of the notice with the ~~county office's~~ records **of the division of family resources.**

(d) The office shall provide one (1) copy of the notice of lien to the recipient or the Medicaid recipient's authorized representative, if applicable, whose real property is affected.

SECTION 14. IC 12-15-8.5-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 9. (a) The office shall release a lien imposed under this chapter within ten (10) business days after the ~~county office of family and children~~ **division of family resources** receives notice that the Medicaid recipient:

(1) is no longer living in the medical institution; and

(2) has returned home to live.

(b) The county recorder shall waive the filing fee for the filing of a release made under this section.

(c) If the property subject to the lien is sold, the office shall release its lien at the closing, and the lien shall attach to the net proceeds of the sale.

SECTION 15. IC 12-17-17 IS REPEALED [EFFECTIVE JULY 1, 2012]. (County Child Advocacy Fund).

SECTION 16. IC 12-17-19-25, AS AMENDED BY P.L.93-2006, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 25. (a) Each step ahead proposal must provide for the implementation of a preschool or developmental child care program for preschool children.

(b) The goals of the preschool or developmental child care program for preschool children are to:

(1) enhance the child's readiness for learning and facilitate the transition from home to school when the preschool child reaches

C o p y

the age of compulsory school attendance;

(2) identify developmental problems or concerns in preschool children and make referrals to the appropriate service providers or to provide the appropriate services;

(3) prevent disruptive employment conditions for parents who are employed; and

(4) ensure a continuity in access to step ahead programs as each preschool child nears the age of compulsory school attendance.

(c) To qualify for an implementation grant under this chapter for preschool or developmental child care programs for preschool children, the eligible entity implementing a preschool or developmental child care program for preschool children must demonstrate cooperation with the following programs within the county:

(1) Public schools, particularly those public schools that provide preschool or special education preschool services.

(2) Head Start programs under 42 U.S.C. 9831 et seq.

(3) Infants and toddlers with disabilities programs under IC 12-12.7-2.

(4) County health department programs.

(5) Private industry council programs.

(6) Women, Infants, and Children (WIC) programs under 42 U.S.C. 1786 et seq.

(7) Community mental retardation and mental health centers that provide services to preschool children with disabilities.

~~(8) The county office of family and children.~~

~~(9)~~ **(8)** Consumer representation groups.

SECTION 17. IC 12-17.2-4-2, AS AMENDED BY P.L.145-2006, SECTION 96, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 2. (a) A license may be issued only if a child care center is in compliance with food, health, safety, and sanitation standards as determined by the division under rules adopted by the division under IC 12-17.2-2-4 or in accordance with a variance or waiver approved by the division under IC 12-17.2-2-10.

(b) A license may be issued only if the child care center is in substantial compliance with the fire and life safety rules as determined by the state fire marshal under rules adopted by the division under IC 12-17.2-2-4 or in accordance with a variance or waiver approved by the division under IC 12-17.2-2-10.

(c) The division may issue a waiver or variance regarding a determination by the division or the state fire marshal under subsections (a) and (b).

(d) At least one (1) adult individual who maintains annual

C o p y

certification in a course of cardiopulmonary resuscitation applicable to all age groups of children cared for by the child care center shall be present at all times when a child is in the care of a child care center.

(e) An individual who:

(1) is employed; or

(2) volunteers;

as a caregiver at a child care center shall maintain current certification in first aid applicable to all age groups of children cared for by the child care center.

~~(f) Upon request, the county office of family and children shall provide, within forty-eight (48) hours, excluding weekends and holidays, copies of substantiated noncompliances and other substantiated complaints filed with the division of family resources concerning a licensed child care center.~~

SECTION 18. IC 12-26-8-9 IS REPEALED [EFFECTIVE JULY 1, 2012]. ~~Sec. 9. A juvenile court that commits a child under this article shall require the department of child services for a child who is a child in need of services or the probation department for the court to report to the court on the progress made in implementing the commitment at least every six (6) months. If the committed child is a child in need of services, the department of child services shall perform case reviews of the child's commitment under IC 31-34-21.~~

SECTION 19. IC 16-37-2-2.1, AS AMENDED BY P.L.25-2010, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 2.1. (a) A paternity affidavit may be executed as provided in this section through:

(1) a hospital; or

(2) a local health department.

(b) Immediately before or after the birth of a child who is born out of wedlock, a person who attends or plans to attend the birth, including personnel of all public or private birthing hospitals, shall:

(1) provide an opportunity for:

(A) the child's mother; and

(B) a man who reasonably appears to be the child's biological father;

to execute an affidavit acknowledging paternity of the child; and

(2) verbally explain to the individuals listed in subdivision (1) the legal effects of an executed paternity affidavit as described in subsection ~~(h).~~ **(j).**

(c) A paternity affidavit must be executed on a form provided by the state department. The paternity affidavit is valid only if the affidavit is executed as follows:

C o p y

(1) If executed through a hospital, the paternity affidavit must be completed not more than seventy-two (72) hours after the child's birth.

(2) If executed through a local health department, the paternity affidavit must be completed before the child has reached the age of emancipation.

(d) A paternity affidavit is not valid if it is executed after the mother of the child has executed a consent to adoption of the child and a petition to adopt the child has been filed.

(e) A paternity affidavit form executed under this section must contain the following:

(1) The mother's:

(A) full name;

(B) Social Security number;

(C) date of birth; and

(D) address.

(2) The father's:

(A) full name;

(B) Social Security number;

(C) date of birth; and

(D) address.

(3) The child's:

(A) full name;

(B) date of birth; and

(C) birthplace.

(4) A brief explanation of the legal significance of signing a voluntary paternity affidavit.

(5) A statement signed by both parents indicating that:

(A) they understand that signing a paternity acknowledgment affidavit is voluntary;

(B) they understand:

(i) their rights and responsibilities under the affidavit;

(ii) the alternatives to signing the affidavit; and

(iii) the consequences of signing the affidavit; and

(C) they have been informed of the alternatives to signing the affidavit.

(6) Separate signature lines for the mother and father.

(7) Separate signature lines for the witness or notary indicating that the witness or notary observed the father or mother signing the affidavit.

(f) Before a paternity affidavit is signed, both the mother and father must be informed of the alternatives to signing the affidavit.

C o p y

~~(e)~~ **(g)** A paternity affidavit executed under this section must contain or be attached to all of the following:

(1) The mother's sworn statement asserting that a person described in subsection (b)(1)(B) is the child's biological father.

(2) A statement by a person identified as the father under subdivision (1) attesting to a belief that he is the child's biological father.

(3) Written information furnished by the child support bureau of the department of child services:

(A) explaining the effect of an executed paternity affidavit as described in subsection ~~(h);~~ **(j);** and

(B) describing the availability of child support enforcement services.

(4) The Social Security number of each parent.

~~(f)~~ **(h)** A paternity affidavit executed under this section must contain all of the following:

(1) A statement:

(A) that, if the mother and the person described in subsection ~~(e)(2)~~ **(g)(2)** check the box located next to this statement and sign on the signature lines described in subdivision (2), the mother and the person described in subsection ~~(e)(2)~~ **(g)(2)** agree to share joint legal custody of the child; and

(B) that joint legal custody means that the persons sharing joint legal custody:

(i) share authority and responsibility for the major decisions concerning the child's upbringing, including the child's education, health care, and religious training; and

(ii) have equal access to the child's school and medical records.

(2) Two (2) signature lines located below the statements described in subdivision (1).

(3) A statement that, if the mother and the person described in subsection ~~(e)(2)~~ **(g)(2)** do not agree to share joint legal custody, the mother has sole legal custody unless another determination is made by a court in a proceeding under IC 31-14.

(4) A statement that even if the mother and the person described in subsection ~~(e)(2)~~ **(g)(2)** share joint legal custody, the mother has primary physical custody of the child unless another determination is made by a court in a proceeding under IC 31-14.

(5) A statement that, if the mother and the person described in subsection ~~(e)(2)~~ **(g)(2)** agree to share joint legal custody as described under subdivision (1)(A), the agreement to share joint

C o p y

legal custody is void unless the result of a genetic test performed by an accredited laboratory:

(A) indicates that the person described in subsection ~~(c)(2)~~ **(g)(2)** is the child's biological father; and

(B) is submitted to a local health officer not later than sixty (60) days after the child's birth.

(6) A statement with signature lines that affirms that an individual described in subsection ~~(r)~~ **(t)** has had an opportunity to consult with an adult chosen by the individual.

~~(g)~~ **(i)** A woman who knowingly or intentionally falsely names a man as the child's biological father under this section commits a Class A misdemeanor.

~~(h)~~ **(j)** A paternity affidavit executed under this section:

(1) establishes paternity;

(2) gives rise to parental rights and responsibilities of the person described in subsection ~~(c)(2),~~ **(g)(2),** including:

(A) the right of the child's mother or the Title IV-D agency to obtain a child support order against the person, which may include an order requiring the provision of health insurance coverage; and

(B) parenting time in accordance with the parenting time guidelines adopted by the Indiana supreme court, unless another determination is made by a court in a proceeding under IC 31-14-14; and

(3) may be filed with a court by the department of child services.

However, if a paternity affidavit is executed under this section, unless another determination is made by a court in a proceeding under IC 31-14 or the child's mother and the person described in subsection ~~(c)(2)~~ **(g)(2)** agree to share joint legal custody of the child as described in subsection ~~(f),~~ **(h),** the child's mother has sole legal and primary physical custody of the child.

~~(i)~~ **(k)** Notwithstanding any other law, a man who is a party to a paternity affidavit executed under this section may, within sixty (60) days of the date that a paternity affidavit is executed under this section, file an action in a court with jurisdiction over paternity to request an order for a genetic test.

~~(j)~~ **(l)** A paternity affidavit that is properly executed under this section may not be rescinded more than sixty (60) days after the paternity affidavit is executed unless a court:

(1) has determined that fraud, duress, or material mistake of fact existed in the execution of the paternity affidavit; and

(2) at the request of a man described in subsection ~~(i),~~ **(k),** has

C o p y

ordered a genetic test, and the test indicates that the man is excluded as the father of the child.

~~(k)~~ **(m)** Unless good cause is shown, a court shall not suspend the legal responsibilities under subsection ~~(h)(2)(A)~~ **(j)(2)(A)** of a party to the executed paternity affidavit during a challenge to the affidavit.

~~(l)~~ **(n)** The court may not set aside the paternity affidavit unless a genetic test ordered under subsection ~~(i)~~ **(k)** or ~~(j)~~ **(l)** excludes the person who executed the paternity affidavit as the child's biological father.

~~(m)~~ **(o)** If a paternity affidavit is not executed under subsection (b), the hospital where the birth occurs or a person in attendance at the birth shall inform the child's mother of services available for establishing paternity.

~~(n)~~ **(p)** Except as provided in this section, if a man has executed a paternity affidavit in accordance with this section, the executed paternity affidavit conclusively establishes the man as the legal father of a child without any further proceedings by a court.

~~(o)~~ **(q)** If both the mother and the person described in subsection ~~(e)(2)~~ **(g)(2)** check the box and sign as described in subsection ~~(f)(1)(A),~~ **(h)(1)(A),** the mother and the person described in subsection ~~(e)(2).~~ **(g)(2):**

(1) share joint legal custody of the child; and

(2) have equal access to the child's school and medical records.

An action to establish custody or parenting time of a party who has agreed under subsection ~~(f)~~ **(h)** to share joint legal custody shall be tried de novo.

~~(p)~~ **(r)** Before a paternity affidavit executed under this section is signed, it must be presented separately to:

(1) the child's mother; and

(2) the man who reasonably appears to be the child's biological father;

so that the child's mother may review the affidavit alone and without the presence of the man who reasonably appears to be the child's biological father, and so that the man who reasonably appears to be the child's biological father may review the affidavit alone and without the presence of the child's mother. A signed paternity affidavit is voidable if the requirements of this subsection are not satisfied.

~~(q)~~ **(s)** An agreement to share joint legal custody described under subsection ~~(f)~~ **(h)** is void if either of the following applies:

(1) A genetic test performed by an accredited laboratory indicates a person described in subsection ~~(e)(2)~~ **(g)(2)** is not the biological father of the child.

C o p y

(2) A person described in subsection ~~(e)(2)~~ **(g)(2)** fails to submit:
(A) to a local health officer; and
(B) not later than sixty (60) days after the date of the child's birth;
the results of a genetic test performed by an accredited laboratory that indicates the person is the biological father of the child.

~~(r)~~ **(t)** An individual who is:
(1) a:
(A) child's mother; or
(B) person identified as the father under subsection ~~(e)(1);~~ **(g)(1);** and
(2) less than eighteen (18) years of age;
must have an opportunity to consult with any adult chosen by the individual regarding the contents of a paternity affidavit before signing the paternity affidavit under this section. A signed paternity affidavit is voidable if the individual does not have the opportunity to consult with an adult chosen by the individual.

SECTION 20. IC 29-3-9-11, AS AMENDED BY P.L.146-2008, SECTION 531, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 11. ~~(a) The department of child services shall investigate and report to the court concerning the conditions and circumstances of a minor and the fitness and conduct of the guardian or the proposed guardian whenever ordered to do so by the court.~~

~~(b)~~ The office of the secretary of family and social services shall investigate and report to the court concerning the conditions and circumstances of a minor or an alleged incapacitated adult or protected person who is an adult and the fitness and conduct of the guardian or the proposed guardian whenever ordered to do so by the court.

SECTION 21. IC 31-9-2-0.4, AS ADDED BY P.L.1-2009, SECTION 154, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 0.4. "Abandoned child", for purposes of IC 31-34-21-4 and IC 31-35-2-6.5, means a child who is, or who appears to be, not more than ~~forty-five (45)~~ **thirty (30)** days of age and whose parent:
(1) has knowingly or intentionally left the child with an emergency medical services provider; and
(2) did not express an intent to return for the child.

SECTION 22. IC 31-9-2-0.5, AS AMENDED BY P.L.1-2009, SECTION 155, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 0.5. "Abandoned infant", for purposes of IC 31-34-21-5.6, means:

C o p y

(1) a child who is less than twelve (12) months of age and whose parent, guardian, or custodian has knowingly or intentionally left the child in:

(A) an environment that endangers the child's life or health; or

(B) a hospital or medical facility;

and has no reasonable plan to assume the care, custody, and control of the child; or

(2) a child who is, or who appears to be, not more than ~~forty-five (45)~~ **thirty (30)** days of age and whose parent:

(A) has knowingly or intentionally left the child with an emergency medical services provider; and

(B) did not express an intent to return for the child.

SECTION 23. IC 31-9-2-9.3, AS AMENDED BY P.L.146-2008, SECTION 533, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 9.3. (a) "Applicant", for purposes of IC 31-25-3, IC 31-25-4, ~~IC 31-26-2,~~ and IC 31-26-3.5, means a person who has applied for assistance for the applicant or another person.

(b) "Applicant", for purposes of IC 31-27, means a person who seeks a license to operate a child caring institution, foster family home, group home, or child placing agency.

SECTION 24. IC 31-9-2-9.7, AS AMENDED BY P.L.146-2008, SECTION 534, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 9.7. "Assistance", for purposes of the following statutes, means money or services regardless of the source, paid or furnished under any of the following statutes:

(1) IC 31-25-3.

(2) IC 31-25-4.

~~(3) IC 31-26-2.~~

~~(4)~~ **(3)** IC 31-26-3.5.

SECTION 25. IC 31-9-2-10.3, AS AMENDED BY P.L.146-2008, SECTION 535, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 10.3. "Blind", for purposes of IC 31-25-3, IC 31-25-4, ~~IC 31-26-2,~~ IC 31-28-1, IC 31-28-2, and IC 31-28-3, means an individual who has vision in the better eye with correcting glasses of 20/200 or less, or a disqualifying visual field defect as determined upon examination by an ophthalmologist or optometrist who has been designated to make such examinations by the ~~county~~ **local** office and approved by the department.

SECTION 26. IC 31-9-2-17.8, AS AMENDED BY P.L.229-2011, SECTION 255, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 17.8. "Child services", for purposes

C o p y

of this title, means the following:

(1) Services, other than services that are costs of secure detention, specifically provided by or on behalf of the department for or on behalf of children who are:

(A) adjudicated to be:

(i) children in need of services under IC 31-34; or

(ii) delinquent children under IC 31-37;

(B) parties in a child in need of services case filed under IC 31-34 or in a delinquency case filed under IC 31-37 before adjudication or entry of a dispositional decree;

(C) subject to temporary care or supervision by the department under any applicable provision of IC 31-33, IC 31-34, or IC 31-37;

(D) recipients or beneficiaries of a program of informal adjustment approved under IC 31-34-8 or IC 31-37-9; or

(E) recipients or beneficiaries of:

(i) adoption assistance or kinship guardianship assistance under Title IV-E of the federal Social Security Act (42 U.S.C. 673), as amended;

(ii) adoption subsidies or assistance under IC 31-19-26.5;

(iii) assistance, including emergency assistance or assisted guardianships, provided under Title IV-A of the federal Social Security Act (42 U.S.C. 601 et seq.), as amended; or

(iv) other financial assistance provided to or for the benefit of a child who was previously adjudicated as a child in need of services or delinquent child, including a legal guardianship established to implement a permanency plan under IC 31-34-21-7.5(c)(1)(E) if IC 29-3-8-9 applies and the assistance is approved under a rule or published policy of the department.

(2) Costs of using an institution or facility for providing educational services to children described in subdivision (1)(A), under either IC 20-33-2-29 (if applicable) or IC 20-26-11-13 (if applicable).

~~(3) Assistance awarded by the department to a destitute child under IC 31-26-2.~~

SECTION 27. IC 31-9-2-26 IS REPEALED [EFFECTIVE JULY 1, 2012]. ~~Sec. 26. "County office" or "county office of family and children", for purposes of this title, refers to a local office of the department.~~

SECTION 28. IC 31-9-2-72.5 IS REPEALED [EFFECTIVE JULY 1, 2012]. ~~Sec. 72.5. (a) "Kinship caregiver", for purposes of~~

C o p y

~~IC 31-25-2-20, means a person who is:~~

~~(1) at least eighteen (18) years of age;~~

~~(2) related to a child by blood, adoption, or marriage or is a godparent or stepparent of the child; and~~

~~(3) the primary caregiver for and provider of financial support of a child described in subdivision (2) who is residing with the person.~~

~~(b) The term includes a grandparent, a great grandparent, a sibling, an uncle, an aunt, a nephew, a niece, or a first cousin.~~

SECTION 29. IC 31-9-2-99.7, AS AMENDED BY P.L.146-2008, SECTION 547, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 99.7. "Public welfare", for purposes of IC 31-25-3 **and** IC 31-25-4, ~~and IC 31-26-2,~~ means any form of public welfare or Social Security provided in IC 31-25-3 **or** IC 31-25-4. ~~or IC 31-26-2.~~ The term does not include direct township assistance as administered by township trustees under IC 12-20.

SECTION 30. IC 31-9-2-102.5, AS AMENDED BY P.L.146-2008, SECTION 548, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 102.5. "Recipient", for purposes of IC 31-25-3 **and** IC 31-25-4, ~~and IC 31-26-2,~~ means a person who has received or is receiving assistance for the person or another person.

SECTION 31. IC 31-9-2-135, AS AMENDED BY P.L.146-2008, SECTION 554, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 135. (a) "Warrant", for purposes of IC 31-25-3 **and** IC 31-25-4, ~~and IC 31-26-2,~~ means an instrument that is:

(1) the equivalent of a money payment; and

(2) immediately convertible into cash by the payee for the full face amount of the instrument.

(b) "Warrant", for purposes of the Uniform Child Custody Jurisdiction Act under IC 31-21, has the meaning set forth in IC 31-21-2-21.

SECTION 32. IC 31-14-11-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 12. (a) If the clerk of the court is notified by the Title IV-D agency or the agency's designee that:

(1) the child who is the beneficiary of a support order is receiving assistance under the:

(A) federal Title IV-A assistance program (42 U.S.C. 601 et seq.); **or**

(B) Title IV-E assistance program (42 U.S.C. 671 et seq.); ~~and~~

C o p y

(2) an assignment of support rights in favor of the state is in effect against the person obligated to make child support payments; **and**

(3) the Title IV-D agency has sent notice to the child support obligor and obligee;

the clerk of the court shall forward the child support payments directly to the Title IV-D agency without further order of the court.

(b) The Title IV-D agency shall disburse the child support payments in accordance with federal regulations governing the Title IV-D program.

SECTION 33. IC 31-14-11-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 13. (a) The clerk shall maintain records listing the following:

(1) The amount of child support payments.

(2) The date when child support payments must be made.

(3) The names and addresses of the parties affected by the order.

(4) The information required to be submitted to the clerk by sections 14, ~~and~~ 15, **and 16** of this chapter.

(b) If the clerk elects under IC 5-13-6-4(a) not to follow the accounting and depository procedures required by IC 5-13-6, the clerk shall comply with IC 5-13-6-4(b).

(c) A record created under this section is the official record of the collection, disbursement, and distribution of child support payments.

SECTION 34. IC 31-14-11-14, AS AMENDED BY P.L.80-2010, SECTION 24, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 14. (a) The custodial parent and the noncustodial parent shall furnish the following information to the clerk of the court for entry into the Indiana support enforcement tracking system (ISETS) **or its successor statewide automated support enforcement system** at the time of the issuance or modification of a child support order:

(1) Except as provided in subsection (b), the parent's:

(A) Social Security number;

(B) current residence and mailing address;

(C) telephone numbers;

(D) date of birth; and

(E) driver's license number.

(2) The name and address of the parent's employer.

(b) An individual certified as a program participant in the address confidentiality program under IC 5-26.5 is not required to provide the individual's current residence and mailing address if the individual provides an address designated by the office of the attorney general under IC 5-26.5 as the individual's current residence and mailing

C o p y

address.

SECTION 35. IC 31-16-6-9, AS ADDED BY P.L.80-2010, SECTION 31, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 9. (a) The custodial parent and noncustodial parent shall furnish the following information to the clerk of the court for entry into the Indiana support enforcement tracking system (ISETS) **or its successor statewide automated support enforcement system** at the time of the issuance or modification of a child support order:

(1) Except as provided in subsection (b), the parent's:

(A) Social Security number;

(B) current residence and mailing address;

(C) telephone numbers;

(D) date of birth; and

(E) driver's license number.

(2) The name, telephone number, and address of the parent's employer.

(b) An individual certified as a program participant in the address confidentiality program under IC 5-26.5 is not required to provide the individual's current residence and mailing address if the individual provides an address designated by the office of the attorney general under IC 5-26.5 as the individual's current residence and mailing address.

SECTION 36. IC 31-16-6-10, AS ADDED BY P.L.80-2010, SECTION 32, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 10. (a) Except as provided in subsection (c), a party affected by a support order shall inform the clerk of the court and the state central collection unit established within the child support bureau by IC 31-25-3-1 of any change of address not more than fifteen (15) days after the party's address is changed.

(b) At the time of the issuance or modification of a support order, the parties affected by the order shall inform the clerk of the court and the state central collection unit established within the child support bureau by IC 31-25-3-1 of:

(1) whether any of the parties is receiving or has received assistance under the:

(A) federal Aid to Families with Dependent Children program (42 U.S.C. 601 et seq.); or

(B) federal Temporary Assistance for Needy Families (TANF) program (45 CFR 260 et seq.); and

(2) the Social Security number of any child affected by the order.

The Social Security number required under subdivision (2) shall be **maintained in the Indiana support enforcement tracking system**

C o p y

(ISETS) or its successor statewide automated support enforcement system and shall be kept confidential and may be used only to carry out the purposes of the Title IV-D program.

(c) A party who is an individual certified as a program participant in the address confidentiality program under IC 5-26.5 is not required to provide the individual's current residence and mailing address if the individual provides an address designated by the office of the attorney general under IC 5-26.5 as the individual's principal residence and mailing address.

SECTION 37. IC 31-16-10-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 1. Upon entering an order under IC 31-16-6-1 or at any subsequent time, the court may order, upon the proper showing that a person other than the person awarded custody under IC 31-17-2-8 (or IC 31-1-11.5-21 before its repeal) should receive payments, that the clerk of the circuit court or the person obligated to make the payments transmit those payments to any third person agreed upon by the parties and approved by the court or appointed by the court, including the following:

(1) A trustee.

(2) The guardian of the estate of the child.

(3) Any third person.

(4) The ~~county office of family and children~~ **department** or any appropriate social service agency.

(5) The state agency administering Title IV-D of the federal Social Security Act (42 U.S.C. 651 through 669).

(6) The township trustee.

SECTION 38. IC 31-16-10-2, AS AMENDED BY P.L.1-2009, SECTION 159, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 2. (a) If the clerk of the court or the state central collection unit is notified by the Title IV-D agency or the agency's designee that:

(1) the child who is the beneficiary of a support order is receiving assistance under the:

(A) federal Temporary Assistance for Needy Families (TANF) program (45 CFR 260 et seq.); **or**

(B) Title IV-E assistance program (42 U.S.C. 670 et seq.); ~~and~~

(2) an assignment of support rights in favor of the state is in effect against the person obligated to make child support payments; **and**

(3) the Title IV-D agency has sent notice to the child support obligor and obligee;

the clerk of the court or the state central collection unit shall forward

C o p y

the child support payments directly to the Title IV-D agency without further order of the court.

(b) The Title IV-D agency shall disburse the payments in accordance with federal regulations governing the Title IV-D program.

SECTION 39. IC 31-16-15-2.7, AS AMENDED BY P.L.80-2010, SECTION 39, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 2.7. (a) The bureau shall:

(1) prescribe standard forms for:

(A) an income withholding order; and

(B) a notice form; and

(2) make the forms listed in subdivision (1) available to:

(A) a court;

(B) a private attorney;

(C) an obligor; and

(D) an obligee.

(b) An income withholding order under this chapter must be issued in a form substantially similar to the form prescribed under subsection (a)(1)(A).

(c) An income withholding order form under subsection (a)(1)(A) must contain the following:

(1) The amount of income to be withheld.

(2) A statement that the total amount of income to be withheld is the sum of the following:

(A) The obligor's current child support obligation.

(B) The amount of any child support arrearage ordered by the court.

(C) An additional amount as determined under section 2.5(f) of this chapter for:

(i) any arrearage that has not been adjudicated, if no arrearage has been adjudicated previously; or

(ii) any additional arrearage that has not been adjudicated and accrues since the last adjudication of arrearage by the court.

(D) A fee of two dollars ($2) that must be paid at the income payor's option to the income payor each time the income payor forwards income to the state central collection unit.

(3) A statement that the total amount withheld under the income withholding order plus the fee under subdivision (2)(D) may not exceed the maximum amount permitted under 15 U.S.C. 1673(b).

(4) A statement that an income payor shall:

(A) begin withholding income not later than the first pay date after fourteen (14) days following the date the income

C o p y

withholding order is received by the income payor; and

(B) report to the state central collection unit the date on which the income was withheld from the obligor's income.

(5) A statement that if an income payor is required to withhold income from more than one (1) obligor, the income payor may combine the withheld amount of income into a single payment for all obligors who are required to make payments to the state central collection unit if the income payor identifies the part of the single payment that is attributable to each individual obligor.

(6) A statement that if the obligor has:

(A) more than one (1) income withholding order against the obligor; and

(B) insufficient disposable earnings to pay the amount of income withholding for all income withholding orders;

an income payor shall honor all withholdings to the extent that the total amount withheld does not exceed limits imposed under 15 U.S.C. 1673(b).

(7) A statement that the income payor shall distribute the withheld income pro rata among the persons entitled to receive income under the income withholding orders, giving priority to orders for current child support.

(8) A statement that the income payor may not distribute income as described under subdivision (7) in a manner that would result in one (1) of the current child support obligations not being honored.

(9) A statement that the income payor shall forward the amount withheld for current support and any arrears to the state central collection unit with a statement identifying the:

(A) cause number for the obligee;

(B) name of the obligor;

(C) name of the obligee with the applicable income withheld for each obligee forwarded from the income payor; **and**

~~(D) Social Security number of each obligee; and~~

~~(E)~~ **(D)** Indiana support enforcement tracking system (ISETS) **or its successor statewide automated support enforcement system** number for each obligee.

(10) A statement that the income withholding order is binding upon the income payor until further notice by the Title IV-D agency.

(11) A statement that if an income payor:

(A) discharges the obligor from employment;

(B) refuses to employ the obligor;

C o p y

(C) takes disciplinary action against the obligor employed by the income payor; or

(D) otherwise discriminates against the obligor;

because of the existence of an income withholding order or the obligations imposed upon the income payor by the income withholding order, the income payor is subject to a penalty of not more than five thousand dollars ($5,000) payable to the state and recoverable in a civil action.

(12) A statement that if an income payor fails to withhold income in accordance with the income withholding order, the income payor is liable for:

(A) the accumulated amount the income payor should have withheld from the obligor's income; and

(B) any interest, attorney's fees, and costs.

(13) A statement that an income withholding order under this chapter has priority over any secured or unsecured claim on income, except for claims for federal, state, and local taxes.

(14) A statement that an income payor must:

(A) notify the Title IV-D agency if the obligor:

(i) ceases employment with; or

(ii) no longer receives income from;

the income payor, not later than ten (10) days after the date the obligor's employment or income ceases; and

(B) provide the obligor's last known address and the name and address of the obligor's new income payor, if known, to the Title IV-D agency.

SECTION 40. IC 31-16-15-3.5, AS ADDED BY P.L.103-2007, SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 3.5. (a) Except as provided under section 2.5(c) of this chapter, a Title IV-D agency shall issue a notice of intent to withhold income to an obligor before the Title IV-D agency implements an income withholding order under section 2.5 of this chapter. The notice is sufficient for all future income withholding until the child support obligation is fully satisfied.

(b) The notice under subsection (a) must contain the following:

(1) A statement that an income withholding order will be sent to all current and future income payors.

(2) If applicable, the amount of child support that the obligor is in arrears.

(3) A statement that the income shall be:

(A) withheld by a current and future income payor from the obligor's income for the payment of child support; and

C o p y

(B) forwarded to the state central collection unit with a statement identifying the:

(i) cause number for the obligee;

(ii) name of the obligor;

(iii) name of the obligee with the applicable income withheld for each obligee forwarded from the income payor; **and**

~~(iv) Social Security number of each obligee; and~~

~~(v)~~ **(iv)** Indiana support enforcement tracking system (ISETS) **or its successor statewide automated support enforcement system** number for each obligee.

(4) A statement that the total amount of income to be withheld by the Title IV-D agency under the income withholding order is the sum of:

(A) the obligor's current child support obligation; plus

(B) the amount of any arrearage payment ordered by the court; plus

(C) an additional amount as determined under section 2.5(f) of this chapter for:

(i) any arrearage that has not been adjudicated, if no arrearage has been adjudicated previously; or

(ii) any additional arrearage that has not been adjudicated and accrues since the last adjudication of arrearage by the court; plus

(D) a fee of two dollars ($2), which must be paid at the income payor's option to the income payor each time the income payor forwards income to the state central collection unit.

(5) A statement that:

(A) the total amount withheld under the income withholding order may not exceed the maximum amount permitted under 15 U.S.C. 1673(b);

(B) the income withholding order applies to the receipt of any current or subsequent income from a current or future income payor;

(C) the obligor may contest the Title IV-D agency's determination to implement an income withholding order by making written application to the Title IV-D agency not more than twenty (20) days after the date the notice under this section is mailed to the obligor;

(D) the only basis for contesting the implementation of an income withholding order is a mistake of fact;

(E) if the obligor contests the Title IV-D agency's

C o p y

determination to implement the income withholding order, the Title IV-D agency shall schedule an administrative hearing;

(F) if the obligor does not contest the Title IV-D agency's determination to implement an income withholding order within the period of time required under section 4.3 of this chapter, the Title IV-D agency shall implement the income withholding order;

(G) an income payor shall:

(i) begin withholding income not later than the first pay date after fourteen (14) days following the date the income withholding order is received by the income payor; and

(ii) report to the state central collection unit the date on which the income was withheld from the obligor's income;

(H) if an income payor is required to withhold income from more than one (1) obligor, the income payor may combine the withheld amount of income into a single payment for all obligors who are required to make payments to the state central collection unit if the income payor identifies the part of the single payment that is attributable to each individual obligor;

(I) if the obligor has:

(i) more than one (1) income withholding order against the obligor; and

(ii) insufficient disposable earnings to pay the amount of income withholding for all income withholding orders;

an income payor shall distribute the withheld income pro rata among the persons entitled to receive income under the income withholding orders, giving priority to a current income withholding order;

(J) an income payor shall honor all withholdings to the extent that the total amount withheld does not exceed limits imposed under 15 U.S.C. 1673(b);

(K) the income withholding order is binding upon the income payor until further notice by the Title IV-D agency;

(L) an income payor that:

(i) discharges the obligor from employment;

(ii) refuses to employ the obligor;

(iii) takes disciplinary action against the obligor employed by the income payor; or

(iv) otherwise discriminates against the obligor;

because of the existence of an income withholding order or the obligations imposed upon the income payor by the income

C o p y

withholding order is subject to a penalty not to exceed five thousand dollars ($5,000) payable to the state and recoverable in a civil action;

(M) if an income payor fails to withhold income in accordance with the income withholding order, the income payor is liable for:

(i) the accumulated amount the income payor should have withheld from the obligor's income; and

(ii) any interest, attorney's fees, and costs;

(N) an income withholding order under this chapter has priority over any secured or unsecured claim on income, except for claims for federal, state, and local taxes; and

(O) the income payor must notify the Title IV-D agency if the obligor:

(i) ceases employment with; or

(ii) no longer receives income from;

the income payor, not later than ten (10) days after the date the obligor's employment or income ceases, and provide the obligor's last known address and the name and address of the obligor's new income payor, if known, to the Title IV-D agency.

(c) If the Title IV-D agency issues a notice of intent to withhold income to the obligor under this section, the Title IV-D agency is not required to provide further notice to continue to implement or amend the income withholding order unless the income withholding order is stayed by the court under section 0.5(c) of this chapter.

SECTION 41. IC 31-16-15-5.5, AS ADDED BY P.L.103-2007, SECTION 31, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 5.5. (a) An obligor or an obligee may file a petition to lift a stay of implementation of an income withholding order.

(b) If an obligee files a petition under subsection (a), the court shall:

(1) set a date for a hearing on the petition; and

(2) send a written notice of the hearing to lift the stay of implementation of the income withholding order to the obligor in accordance with subsection (c).

The court must set a date for the hearing that is not more than twenty (20) days after the date the petition is filed.

(c) The notice under subsection (b)(2) must include the following:

(1) A statement as to whether the obligor is delinquent in the payment of child support.

(2) If applicable, the amount of child support the obligor is in

Copy

arrears.

(3) A statement that if the petition is granted, the obligor's income shall be:

(A) withheld by the court for the payment of child support; and

(B) forwarded to the state central collection unit with a statement identifying:

(i) the cause number for each obligee;

(ii) the name of each obligor;

(iii) the name of each obligee with the amount of the withheld income forwarded by the income payor;

(iv) the Social Security number of each obligor; and

(v) the Indiana support enforcement tracking system (ISETS) **or its successor statewide automated support enforcement system** number for each obligee.

(4) The following statements:

(A) That the total amount of income to be withheld under an income withholding order from the obligor's income is the sum of:

(i) the obligor's current child support obligation; plus

(ii) the amount of arrearage payment ordered by the court; plus

(iii) a fee of two dollars ($2), which must be paid at the income payor's option to the income payor each time the income payor forwards income to the state central collection unit.

(B) That the total amount of income withheld may not exceed the maximum amount permitted by 15 U.S.C. 1673(b).

(C) That the income withholding order applies to the receipt of any current or subsequent income.

(D) That the only basis for contesting the petition to lift the stay of implementation of the income withholding order is a mistake of fact.

(E) That an obligor may contest the court's lifting the stay of the income withholding order by appearing at the hearing scheduled by the court on the petition to lift the stay.

(F) That if the obligor does not appear at the hearing, the court shall implement the income withholding order.

(G) That an income payor shall:

(i) begin withholding income not later than the first pay date after fourteen (14) days following the date the income withholding order is received by the income payor; and

(ii) report to the state central collection unit the date on

C o p y

which the income was withheld from the obligor's income.

(H) That if an income payor is required to withhold income from more than one (1) obligor, the income payor may combine the withheld amount of income into a single payment for all obligors who are required to make payments to the state central collection unit if the income payor identifies the part of the single payment that is attributable to each individual obligor.

(I) That if an obligor has:

(i) more than one (1) income withholding order against the obligor; and

(ii) insufficient disposable earnings to pay the amount of income withholding for all income withholding orders;

the income payor shall distribute the withheld income pro rata among the persons entitled to receive income under the income withholding orders, giving priority to a current income withholding order.

(J) That an income payor shall honor all withholding to the extent that the total amount withheld does not exceed limits imposed under 15 U.S.C. 1673(b).

(K) That the income withholding is binding upon the income payor until further notice by the court.

(L) That an income payor that:

(i) discharges the obligor from employment;

(ii) refuses to employ the obligor;

(iii) takes disciplinary action against the obligor employed by the income payor; or

(iv) otherwise discriminates against the obligor;

because of the existence of an income withholding order or the obligations imposed upon the income payor by the income withholding order, is subject to a penalty not to exceed five thousand dollars ($5,000) payable to the state and recoverable in a civil action.

(M) That if the income payor fails to withhold income in accordance with the income withholding order, the income payor is liable for:

(i) the accumulated amount the income payor should have withheld from the obligor's income; and

(ii) any interest, attorney's fees, and costs.

(N) That an income withholding order under this chapter has priority over any secured or unsecured claim on income, except for claims for federal, state, and local taxes.

C o p y

(O) That the income payor must notify the court if the obligor:
(i) ceases employment with; or
(ii) no longer receives income from;
the income payor not later than ten (10) days after the date the obligor's employment or income ceases and provide the obligor's last known address and the name and address of the obligor's new income payor, if known, to the court.

(d) At a hearing under this section, the court shall grant the petition to lift the stay of implementation of the income withholding order if the obligor has failed to comply with the provisions of the support order, unless the court finds that the conditions under section 0.5(c)(2) of this chapter have been met.

(e) If the obligor files a petition to lift the stay of implementation of the income withholding order:
(1) a hearing is not required; and
(2) the court shall grant the petition.

(f) If the court grants the petition to lift the stay of implementation of the income withholding order, the court shall:
(1) implement the income withholding order; and
(2) send the income withholding order to the obligor's income payor.

SECTION 42. IC 31-16-15-7.5, AS AMENDED BY P.L.80-2010, SECTION 41, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 7.5. (a) An income payor that is required to withhold income under this chapter shall:
(1) forward income withheld for the payment of current or past due child support as directed by an income withholding order to the state central collection unit at the time that an obligor is paid;
(2) include a statement that identifies the:
(A) cause number for each obligee;
(B) Indiana support enforcement tracking system (ISETS) **or its successor statewide automated support enforcement system** case number for each obligee;
(C) name of each obligor and the obligor's Social Security number;
(D) name of each obligee with the amount of the withheld income forwarded by the income payor; and
(E) date on which the amount was withheld from the obligor's income; and
(3) begin withholding income not later than the first pay date after fourteen (14) days following the date the order for income withholding is received by the income payor.

C o p y

(b) An income payor may retain, in addition to the amount of income forwarded to the state central collection unit, a fee of not more than two dollars ($2) each time the income payor forwards income to the state central collection unit. If an income payor retains a fee under this subsection, the income payor shall reduce the amount of income withheld for the payment of current and past due child support, if necessary to avoid exceeding the maximum amount permitted to be withheld under 15 U.S.C. 1673(b).

SECTION 43. IC 31-16-17-2, AS AMENDED BY P.L.3-2008, SECTION 236, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 2. An action for support of a parent may be instituted against a child for violation of the duty to support a parent as required by section 1 of this chapter by filing a verified complaint in a circuit or superior court of the county of the residence of either parent. The plaintiff or plaintiffs must be:

(1) the parent or parents; or

(2) the:

(A) prosecuting attorney of the judicial circuit;

(B) ~~county director of the county office of family and children of the county~~ **local office of the county** in which the parent resides;

(C) township trustee of the township in which the parent resides; or

(D) division of family resources;

on behalf of the parent.

SECTION 44. IC 31-16-17-4, AS AMENDED BY P.L.145-2006, SECTION 240, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 4. (a) Any of the following may prosecute a civil action for support of a parent:

(1) The parent.

(2) The township trustee.

(3) The ~~county director of the county office of family and children.~~ **department.**

(4) The director of the division of family resources.

(5) The prosecuting attorney.

(b) Costs may not be taxed against:

(1) the prosecuting attorney;

(2) the ~~county director of the county office of family and children;~~ **department;**

(3) the township trustee; or

(4) the director of the division of family resources.

SECTION 45. IC 31-19-2-7.5, AS AMENDED BY P.L.234-2005,

C o p y

SECTION 92, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 7.5. (a) This section does not apply to a petitioner for adoption who provides the licensed child placing agency or ~~county office of family and children~~ **the local office** with the results of a criminal history check conducted:

(1) in accordance with IC 31-9-2-22.5; and

(2) not more than one (1) year before the date on which the petition is filed.

(b) Every petitioner for adoption shall submit the necessary information, forms, or consents for:

(1) a licensed child placing agency; or

(2) the ~~county office of family and children;~~ **local office;**

that conducts the inspection and investigation required for adoption of a child under IC 31-19-8-5 to conduct a criminal history check (as defined in IC 31-9-2-22.5) of the petitioner as part of its investigation.

(c) The petitioner for adoption shall pay the fees and other costs of the criminal history check required under this section.

SECTION 46. IC 31-19-2-12, AS AMENDED BY P.L.162-2011, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 12. As soon as a petition for adoption is found to be in proper form, the clerk of the court shall forward one (1) copy of the petition for adoption to a licensed child placing agency as described in ~~IC 31-19-7-1,~~ **IC 31-9-2-17.5,** with preference to be given to the agency, if any, sponsoring the adoption, as shown by the petition for adoption.

SECTION 47. IC 31-19-2.5-3, AS AMENDED BY P.L.1-2007, SECTION 195, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 3. (a) Except as provided in section 4 of this chapter, notice must be given to a:

(1) person whose consent to adoption is required under IC 31-19-9-1; and

(2) putative father who is entitled to notice under IC 31-19-4.

(b) If the parent-child relationship has been terminated under IC 31-35 (or IC 31-6-5 before its repeal), notice of the pendency of the adoption proceedings shall be given to the:

(1) licensed child placing agency; or

(2) ~~county office of family and children;~~ **local office;**

of which the child is a ward.

SECTION 48. IC 31-19-7-1, AS AMENDED BY P.L.138-2007, SECTION 37, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 1. (a) A child may not be placed in a proposed adoptive home without the prior written approval of a licensed child

C o p y

placing agency or ~~county office of family and children~~ **the local office** approved for that purpose by the department.

(b) Except as provided in subsection (d), before giving prior written approval for placement in a proposed adoptive home of a child, a licensed child placing agency or the department of child services shall conduct a criminal history check (as defined in IC 31-9-2-22.5) concerning the proposed adoptive parent and any other person who is currently residing in the proposed adoptive home.

(c) The prospective adoptive parent shall pay the fees and other costs of the criminal history check required under this section.

(d) A licensed child placing agency or the department of child services is not required to conduct a criminal history check (as defined in IC 31-9-2-22.5) if a prospective adoptive parent provides the licensed child placing agency or ~~county office of family and children~~ **the local office** with the results of a criminal history check conducted:

(1) in accordance with IC 31-9-2-22.5; and

(2) not more than one (1) year before the date on which the licensed child placing agency or ~~county office of family and children~~ **the local office** provides written approval for the placement.

SECTION 49. IC 31-19-7-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 2. Whenever the written approval for placement of a child in a proposed adoptive home is obtained from a licensed child placing agency, the consent of the ~~county office of family and children~~ **department** is not required unless the child is a ward of the ~~county office of family and children.~~ **department.**

SECTION 50. IC 31-19-8-1, AS AMENDED BY P.L.131-2009, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 1. An adoption may be granted in Indiana only after:

(1) the court has heard the evidence; and

(2) except as provided in section 2(c) of this chapter, a period of supervision, as described in section 2 of this chapter, by:

(A) a licensed child placing agency for a child who has not been adjudicated to be a child in need of services; or

(B) **the department,** if the child is the subject of an open child in need of services action. ~~the county office of family and children approved for that purpose by the department.~~

SECTION 51. IC 31-19-8-3, AS AMENDED BY P.L.131-2009, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 3. (a) The department shall annually compile a list

C o p y

of:

(1) licensed child placing agencies; and

(2) ~~county offices of family and children;~~ **the local offices;**

that conduct the inspection and supervision required for adoption of a child by IC 31-19-7-1 and section 1 of this chapter.

(b) The list of licensed child placing agencies and ~~county~~ **local** offices ~~of family and children~~ must include a description of the following:

(1) Fees charged by each agency and ~~county office of family and children.~~ **the department.**

(2) Geographic area served by each agency and ~~county~~ **local** office. ~~of family and children.~~

(3) Approximate waiting period for the inspection or supervision by each licensed child placing agency and ~~county~~ **local** office. ~~of family and children.~~

(4) Other relevant information regarding the inspection and supervision provided by a licensed child placing agency or a ~~county~~ **local** office ~~of family and children~~ under IC 31-19-7-1 and section 1 of this chapter.

(c) The department shall do the following:

(1) Maintain in its office or on its **Internet** web site copies of the list compiled under this section for distribution to individuals who request a copy.

(2) Provide each ~~county~~ **local** office ~~of family and children~~ with sufficient copies of the list prepared under this section for distribution to individuals who request a copy.

(3) Provide a copy of the list to each public library organized under IC 36-12.

(d) The department and each:

(1) ~~county~~ **local** office; ~~of family and children;~~ and

(2) public library organized under IC 36-12;

shall make the list compiled under this section available for public inspection.

SECTION 52. IC 31-19-8-5, AS AMENDED BY P.L.131-2009, SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 5. (a) Except as provided in subsection (c), not more than sixty (60) days from the date of reference of a petition for adoption to each appropriate agency:

(1) each licensed child placing agency, for a child who is not adjudicated to be a child in need of services; or

(2) if the child is the subject of an open child in need of services action, each ~~county~~ **local** office; ~~of family and children;~~

C o p y

shall submit to the court a written report of the investigation and recommendation as to the advisability of the adoption.

(b) The report and recommendation:

(1) shall be filed with the adoption proceedings; and

(2) become a part of the proceedings.

(c) A court hearing a petition for adoption of a child may waive the report required under subsection (a) if one (1) of the petitioners is a stepparent or grandparent of the child and the court waives the period of supervision.

(d) If the court waives the reports required under subsection (a), the court shall require the licensed child placing agency for a child who is not adjudicated to be a child in need of services or, if the child is the subject of an open child in need of services action, each ~~county~~ **local** office ~~of family and children~~ to:

(1) ensure a criminal history check is conducted under IC 31-19-2-7.5; and

(2) report to the court the results of the criminal history check.

SECTION 53. IC 31-19-8-8, AS AMENDED BY P.L.131-2009, SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 8. The report and recommendation of the licensed child placing agency or ~~county~~ **local** office are not binding on the court but are advisory only.

SECTION 54. IC 31-19-9-1, AS AMENDED BY P.L.58-2009, SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 1. (a) Except as otherwise provided in this chapter, a petition to adopt a child who is less than eighteen (18) years of age may be granted only if written consent to adoption has been executed by the following:

(1) Each living parent of a child born in wedlock, including a man who is presumed to be the child's biological father under IC 31-14-7-1(1) if the man is the biological or adoptive parent of the child.

(2) The mother of a child born out of wedlock and the father of a child whose paternity has been established by:

(A) a court proceeding other than the adoption proceeding, except as provided in IC 31-14-20-2; or

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

unless the putative father gives implied consent to the adoption under section 15 of this chapter.

(3) Each person, agency, or ~~county~~ **local** office ~~of family and children~~ having lawful custody of the child whose adoption is being sought.

C o p y

(4) The court having jurisdiction of the custody of the child if the legal guardian or custodian of the person of the child is not empowered to consent to the adoption.

(5) The child to be adopted if the child is more than fourteen (14) years of age.

(6) The spouse of the child to be adopted if the child is married.

(b) A parent who is less than eighteen (18) years of age may consent to an adoption without the concurrence of:

(1) the individual's parent or parents; or

(2) the guardian of the individual's person;

unless the court, in the court's discretion, determines that it is in the best interest of the child to be adopted to require the concurrence.

SECTION 55. IC 31-19-9-2, AS AMENDED BY P.L.162-2011, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 2. (a) The consent to adoption may be executed at any time after the birth of the child, either in the presence of:

(1) the court;

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

(3) an authorized agent of:

(A) the department; **or**

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

~~(C)~~ **(B)** a licensed child placing agency.

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

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

(1) is in writing;

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

(3) contains an acknowledgment that:

(A) the consent to adoption is irrevocable; and

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

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

(e) Except as provided in subsection (f) or (g), a person who executes a written consent to the adoption of a child may not execute a second or subsequent written consent to have another person adopt the child unless one (1) or more of the following apply:

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

C o p y

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

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

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

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

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

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

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

SECTION 56. IC 31-19-11-1, AS AMENDED BY P.L.162-2011, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 1. (a) Whenever the court has heard the evidence and finds that:

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

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

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

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

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

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

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

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

C o p y

has been filed in relation to the child;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

C o p y

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

(20) A felony under IC 9-30-5.

~~(20)~~ **(21)** A felony under the laws of another jurisdiction, including a military court, that is substantially equivalent to any of the offenses listed in subdivisions (1) through ~~(19).~~ **(20).**

However, the court is not prohibited from granting an adoption based upon a felony conviction under subdivision (6), (10), (12), (13), (17), ~~or~~ (18), **or (20)** or its equivalent under subdivision ~~(20),~~ **(21),** if the date of the conviction did not occur within the immediately preceding five (5) year period.

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

SECTION 57. IC 31-19-16-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 2. A court may grant postadoption contact privileges if:

(1) the court determines that the best interests of the child would be served by granting postadoption contact privileges;

(2) the child is at least two (2) years of age and the court finds that there is a significant emotional attachment between the child and the birth parent;

(3) each adoptive parent consents to the granting of postadoption contact privileges;

(4) the adoptive parents and the birth parents:

(A) execute a postadoption contact agreement; and

(B) file the agreement with the court;

(5) the licensed child placing agency sponsoring the adoption and the child's court appointed special advocate or guardian ad litem appointed under IC 31-32-3 recommends to the court the postadoption contact agreement, or if there is no licensed child placing agency sponsoring the adoption, the ~~county~~ **local** office ~~of family and children~~ or other agency that prepared an adoption report under IC 31-19-8-5 is informed of the contents of the postadoption contact agreement and comments on the agreement in the agency's report to the court;

(6) consent to postadoption contact is obtained from the child if the child is at least twelve (12) years of age; and

(7) the postadoption contact agreement is approved by the court.

SECTION 58. IC 31-19-16.5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 2. In making its determination under section 1 of this chapter, the court shall consider

C o p y

any relevant evidence, including the following:

(1) A recommendation made by a licensed child placing agency sponsoring the adoption.

(2) A recommendation made by the adopted child's court appointed special advocate or guardian ad litem.

(3) A recommendation made by the ~~county~~ **local** office ~~of family and children~~ or other agency that prepared a report of its investigation and its recommendation as to the advisability of the adoption under IC 31-19-8-5.

(4) Wishes expressed by the adopted child or adoptive parents.

SECTION 59. IC 31-19-17-2, AS AMENDED BY P.L.162-2011, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 2. A person, a licensed child placing agency, or a ~~county~~ **local** office ~~of family and children~~ placing a child for adoption shall prepare or cause to be prepared a report summarizing the available medical, psychological, and educational records of the person or agency concerning the birth parents. The person, agency, or ~~county~~ **local** office shall exclude from this report information that would identify the birth parents unless the prospective adoptive parents know the identity of the birth parents. The person, agency, or ~~county~~ **local** office shall give the report to:

(1) the prospective adoptive parents:

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

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

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

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

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

(B) provides proof of identification.

SECTION 60. IC 31-19-17-3, AS AMENDED BY P.L.162-2011, SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 3. The person, licensed child placing agency, or ~~county~~ **local** 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

C o p y

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 61. IC 31-19-17-4, AS AMENDED BY P.L.162-2011, SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 4. The person, licensed child placing agency, or ~~county~~ **local** 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~~ **local** office has knowledge but does not have possession. If requested by a prospective adoptive parent, an adoptive parent, or an adoptee, the person, agency, or ~~county~~ **local** 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~~ **local** office, after identifying information has been excluded.

SECTION 62. IC 31-19-17-5, AS AMENDED BY P.L.1-2010, SECTION 125, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 5. (a) This section applies to an adoption that is granted before July 1, 1993.

(b) Upon the request of an adoptee who:

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

(2) provides proof of identification;

a person, a licensed child placing agency, or a ~~county~~ **local** office shall provide to the adoptee available information of social, medical, psychological, and educational records and reports concerning the adoptee. The person, licensed child placing agency, or ~~county~~ **local** office shall exclude from the records information that would identify the birth parents unless an adoptee already knows the identity of the birth parents.

SECTION 63. IC 31-19-19-2, AS AMENDED BY P.L.191-2011, SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 2. (a) All files and records pertaining to the adoption proceedings in:

C o p y

(1) the ~~county~~ **local** office; ~~of family and children;~~
(2) the department; or
(3) any of the licensed child placing agencies;
are confidential and open to inspection only as provided in IC 31-19-13-2(2), IC 31-19-17, this chapter, or IC 31-19-20 through IC 31-19-25.5.

(b) The files and records described in subsection (a), including investigation records under IC 31-19-8-5 (or IC 31-3-1-4 before its repeal):
(1) are open to the inspection of the court hearing the petition for adoption; and
(2) on order of the court, may be:
(A) introduced into evidence; and
(B) made a part of the record;
in the adoption proceeding.

SECTION 64. IC 31-19-19-4, AS AMENDED BY P.L.191-2011, SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 4. All papers, records, and information pertaining to the adoption, whether part of:
(1) the permanent record of the court; or
(2) a file in:
(A) the division of vital records;
(B) the department or ~~county~~ **local** office; ~~of family and children;~~
(C) a licensed child placing agency; or
(D) a professional health care provider (as defined in IC 34-6-2-117);
are confidential and may be disclosed only in accordance with IC 31-19-17, this chapter, ~~or~~ or IC 31-19-20 through IC 31-19-25.5.

SECTION 65. IC 31-19-20-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 2. (a) Whenever the state registrar receives an inquiry for medical history information from an adoptee or adoptive parent and the state registrar reasonably believes that the medical history information available under section 1 of this chapter is incomplete, the state registrar shall request further medical history information concerning the adoptee from:
(1) the hospital where the adoptee was born; and
(2) the:
(A) licensed child placing agency;
(B) ~~county~~ **local** office; ~~of family and children;~~ and
(C) attorney;
that arranged the adoptee's adoptive placement.

Copy

(b) A hospital, a licensed child placing agency, a ~~county~~ **local** office, ~~of family and children,~~ or an attorney that receives a request for medical information under subsection (a) shall release medical history information concerning the adoptee to the state registrar.

(c) The state registrar shall release any additional medical history information received under subsection (b) to the adoptee or adoptive parent.

SECTION 66. IC 31-19-21-7, AS ADDED BY P.L.191-2011, SECTION 26, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 7. The following persons shall send a copy of a consent for the release of identifying information and any signed writing that withdraws or modifies a consent for the release of identifying information received by the person to the state registrar:

(1) The department.

(2) A ~~county~~ **local** office. ~~of family and children.~~

(3) A licensed child placing agency.

(4) A professional health care provider (as defined in IC 34-6-2-117).

(5) An attorney.

(6) A court.

SECTION 67. IC 31-19-22-2, AS AMENDED BY P.L.191-2011, SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 2. (a) Except as provided in section 3 of this chapter and subject to subsection (b) and section 12 of this chapter, the state registrar, the department, a ~~county~~ **local** office, ~~of family and children,~~ a licensed child placing agency, a professional health care provider, an attorney, and a court shall release identifying information in the person's possession only if:

(1) the information is requested by:

(A) an adoptee who is an adult;

(B) a birth parent;

(C) an adoptive parent;

(D) the spouse or relative of a deceased adoptee; or

(E) the spouse or relative of a deceased birth parent; and

(2) the following individuals have submitted a written consent under IC 31-19-21 (or IC 31-3-4-27 before its repeal) to the state registrar or the person from whom the identifying information is requested that allows the release of identifying information to the individual requesting the information:

(A) The adult adoptee.

(B) A birth parent.

(b) Except as provided under subsection (c), if an individual

C o p y

requests the release of identifying information under subsection (a) for an adoptee who is less than twenty-one (21) years of age, the state registrar, the department, a ~~county~~ **local** office, ~~of family and children,~~ a licensed child placing agency, a professional health care provider, an attorney, and a court may not release identifying information under this section unless the adoptee's adoptive parent has submitted a written consent for the release of identifying information.

(c) The state registrar, the department, a ~~county~~ **local** office, ~~of family and children,~~ a licensed child placing agency, a professional health care provider, an attorney, and a court may not release identifying information under this chapter if the request for the release of identifying information involves an adoptee to whom both of the following apply:

(1) The adoptee is less than twenty-one (21) years of age.

(2) The adoptee's name is on the list provided to the state department of health under IC 31-25-2-22.

(d) A licensed child placing agency, a professional health care provider, an attorney, and a court:

(1) may request that the state department of health search the list provided under IC 31-25-2-22 to determine whether an adoptee's name is on the list; and

(2) shall, at the time of the request, provide:

(A) the name of the adoptee at the time parental rights were terminated; and

(B) an affidavit under penalty of perjury affirming that the licensed child placing agency, professional health care provider, attorney, or court is seeking information regarding the adoptee for the purpose of providing identifying information under this chapter.

(e) Not later than five (5) days after the state department of health receives a request and an affidavit under subsection (d), the state department of health shall submit an affidavit to the child placing agency, professional health care provider, attorney, or court verifying whether the adoptee's name is on the list provided to the state department of health under IC 31-25-2-22.

SECTION 68. IC 31-19-22-7, AS AMENDED BY P.L.191-2011, SECTION 32, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 7. An individual listed in section 2(a)(1) of this chapter may contact the:

(1) attorney;

(2) licensed child placing agency; or

(3) ~~county~~ **local** office; ~~of family and children;~~

C o p y

who arranged the adoption to request that the attorney, agency, or ~~county~~ **local** office ~~of family and children~~ contact the adoptee, birth parent, or adoptive parent whose consent is necessary before identifying information may be released under this chapter.

SECTION 69. IC 31-19-22-7.5, AS ADDED BY P.L.191-2011, SECTION 33, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 7.5. An attorney, a licensed child placing agency, and a ~~county~~ **local** office ~~of family and children~~ may not contact an adoptee, a birth parent, or an adoptive parent or disclose identifying information upon a request under section 7 of this chapter if the request involves an adoptee to whom both of the following apply:

(1) The adoptee is less than twenty-one (21) years of age.

(2) The adoptee's name is on the list provided to the state department of health under IC 31-25-2-22.

SECTION 70. IC 31-19-22-8, AS AMENDED BY P.L.191-2011, SECTION 34, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 8. (a) Except as provided in section 7.5 of this chapter and subject to section 12 of this chapter, an attorney, a licensed child placing agency, or a ~~county~~ **local** office ~~of family and children~~ who contacts an adoptee, a birth parent, or an adoptive parent upon a request under section 7 of this chapter may not disclose identifying information unless the:

(1) adoptee who:

(A) is at least twenty-one (21) years of age gives written consent; or

(B) is less than twenty-one (21) years of age has the written consent of the adoptee's adoptive parents; and

(2) birth parent gives written consent;

to the release of identifying information by the attorney, licensed child placing agency, or ~~county~~ **local** office. ~~of family and children.~~

(b) If:

(1) the:

(A) adoptee who is at least twenty-one (21) years of age; or

(B) adoptive parent of an adoptee who is less than twenty-one (21) years of age; and

(2) the birth parent;

consent to the release of identifying information but do not provide the consent in writing, the attorney, licensed child placing agency, or ~~county~~ **local** office ~~of family and children~~ may inform the individual requesting the identifying information regarding the fact that an adoptee, birth parent, or adoptive parent has consented to the release of identifying information. The attorney, licensed child placing agency,

C o p y

or ~~county~~ **local** office ~~of family and children~~ may inquire as to whether the adoptee, birth parent, or adoptive parent, whose consent is still needed before identifying information may be released, is interested in participating in the adoption registry under IC 31-19-18 through IC 31-19-21, this chapter, IC 31-19-23 through IC 31-19-24, and IC 31-19-25.5.

SECTION 71. IC 31-19-22-11, AS AMENDED BY P.L.191-2011, SECTION 36, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 11. (a) An attorney, a licensed child placing agency, or a ~~county~~ **local** office ~~of family and children~~ may charge a reasonable fee for services performed or actual expenses incurred under section 8 of this chapter.

(b) The following persons may charge a reasonable fee for actual expenses incurred in complying with this chapter and IC 31-19-23:

(1) A licensed child placing agency.
(2) The court.
(3) The department.
(4) A ~~county~~ **local** office. ~~of family and children.~~
(5) A professional health care provider.
(6) An attorney.
(7) The state department of health.

SECTION 72. IC 31-19-23-1, AS AMENDED BY P.L.145-2006, SECTION 258, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 1. The following persons shall release nonidentifying information concerning an adoption in the entity's possession to any person described in IC 31-19-18-2(a) upon request:

(1) The state registrar.
(2) The department.
(3) A ~~county~~ **local** office. ~~of family and children.~~
(4) A licensed child placing agency.
(5) A professional health care provider (as defined in IC 34-6-2-117).
(6) The attorney who arranged the adoption.
(7) A court.

SECTION 73. IC 31-19-23-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 2. (a) This section applies to an adopted child if:

(1) the ~~county~~ **local** office; ~~of family and children;~~ or
(2) the prosecuting attorney;

has filed a petition alleging that the child is a child in need of services under ~~or~~ IC 31-34-1.

C o p y

(b) The:

(1) ~~county~~ **local** office; ~~of family and children;~~

(2) child's guardian ad litem or court appointed special advocate; and

(3) juvenile court;

may have access to nonidentifying adoption information regarding the child.

SECTION 74. IC 31-19-24-3, AS AMENDED BY P.L.191-2011, SECTION 40, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 3. Whenever the court appoints a confidential intermediary under section 2(2) of this chapter, the court shall do the following:

(1) Consider:

(A) the highly emotional and personal issues relating to adoption;

(B) the privacy rights of both birth parents, adoptees, and pre-adoptive siblings;

(C) the reasons the medical, identifying, or nonidentifying information is being sought under section 1 of this chapter; and

(D) any irreparable harm to a birth parent, an adoptee, or a pre-adoptive sibling that may arise if appropriate consideration is not given to the issues described in clauses (A) through (C).

(2) Provide the confidential intermediary with an order authorizing the confidential intermediary to search certain records that may include:

(A) the division of public health statistics;

(B) the department or ~~county~~ **local** office; ~~of family and children;~~

(C) any licensed child placing agency; or

(D) any professional health care provider (as defined in IC 34-6-2-117).

An order under this subdivision must specify the information to be sought by the confidential intermediary.

(3) Specify the direct contact, if any, that a confidential intermediary may have with any person from whom the medical, identifying, or nonidentifying information is being sought, such as providing that the confidential intermediary may only inform the person of the existence of the adoption history program administered by the state registrar under IC 31-19-18 through IC 31-19-23, this chapter, IC 31-19-25, and IC 31-19-25.5.

(4) Specify the limitations, if any, that the court considers

C o p y

necessary to prevent the confidential intermediary's search under this chapter from resulting in harm to a birth parent, an adoptee, or a pre-adoptive sibling.

(5) Require the confidential intermediary to affirm under oath that the confidential intermediary agrees to act in good faith and perform its responsibilities in accordance with sections 2 through ~~11~~ **9** of this chapter.

(6) Instruct the confidential intermediary to act as quickly as possible.

SECTION 75. IC 31-19-25-2, AS AMENDED BY P.L.191-2011, SECTION 41, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 2. (a) The following may request the release of identifying information:

(1) An adoptee who is an adult.

(2) A birth parent.

(3) An adoptive parent.

(4) The spouse or relative of a deceased adoptee.

(5) The spouse or relative of a deceased birth parent.

(b) Except as provided in sections 3, 15, and 17 of this chapter and subject to sections 2.5 and 21 of this chapter, upon a request for the release of identifying information under subsection (a):

(1) the state registrar;

(2) the department;

(3) a ~~county~~ **local** office; ~~of family and children;~~

(4) a licensed child placing agency;

(5) a professional health care provider;

(6) the attorney who arranged the adoption; and

(7) a court;

shall release identifying information in the person's possession to the individual requesting the release of identifying information only if the adoptee has submitted a written consent under IC 31-19-21 to the state registrar or the person from whom the release of identifying information is requested for release of identifying information to the individual requesting the release of identifying information.

SECTION 76. IC 31-19-25-2.5, AS ADDED BY P.L.191-2011, SECTION 42, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 2.5. (a) Except as provided in subsection (b), if an individual requests the release of identifying information under section 2 of this chapter regarding an adoptee who is less than twenty-one (21) years of age, the state registrar, the department, a ~~county~~ **local** office, ~~of family and children,~~ a licensed child placing agency, a professional health care provider, an attorney, and a court may not release

C o p y

identifying information under this chapter unless the adoptee's adoptive parent has submitted a written consent for the release of identifying information.

(b) The state registrar, the department, a ~~county~~ **local** office, ~~of family and children,~~ a licensed child placing agency, a professional health care provider, an attorney, and a court may not release identifying information under this chapter if the request for the release of identifying information involves an adoptee to whom both of the following apply:

(1) The adoptee is less than twenty-one (21) years of age.

(2) The adoptee's name is on the list provided to the state department of health under IC 31-25-2-22.

(c) A licensed child placing agency, a professional health care provider, an attorney, and a court:

(1) may request that the state department of health search the list provided under IC 31-25-2-22 to determine whether an adoptee's name is on the list; and

(2) shall, at the time of the request, provide:

(A) the name of the adoptee at the time parental rights were terminated; and

(B) an affidavit under penalty of perjury affirming that the licensed child placing agency, professional health care provider, attorney, or court is seeking information regarding the adoptee for the purpose of providing identifying information under this chapter.

(d) Not later than five (5) days after the state department of health receives a request and affidavit under subsection (c), the state department of health shall submit an affidavit to the child placing agency, professional health care provider, attorney, or court verifying whether the adoptee's name is on the list provided under IC 31-25-2-22.

SECTION 77. IC 31-19-25-3, AS AMENDED BY P.L.191-2011, SECTION 43, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 3. (a) A birth parent may restrict access to identifying information concerning the birth parent by filing a written nonrelease form with the state registrar that evidences the birth parent's lack of consent to the release of identifying information under this chapter.

(b) A person who arranges for the signing of a consent to adoption shall provide the birth parent with a nonrelease form and the explanation described in IC 31-19-9-6.

(c) Except as provided in sections 15 and 17 of this chapter, the following persons may not release any identifying information

C o p y

concerning a birth parent to an individual requesting the release of identifying information under section 2 of this chapter if a nonrelease form is in effect at the time of the request for identifying information:

(1) The state registrar.

(2) The department.

(3) A ~~county~~ **local** office. ~~of family and children.~~

(4) A licensed child placing agency.

(5) A professional health care provider.

(6) The attorney who arranged the adoption.

(7) A court.

(d) Except as provided in subsection (f), the nonrelease form filed under this section:

(1) remains in effect during the period indicated by the individual submitting the form;

(2) is renewable; and

(3) may be withdrawn at any time by the individual who submitted the form.

(e) The nonrelease form is no longer in effect if the birth parent consents in writing to the release of identifying information and has not withdrawn that consent.

(f) A nonrelease form is no longer in effect if the birth parent who filed the nonrelease form is deceased unless the nonrelease form specifically states that the nonrelease form remains in effect after the birth parent's death.

SECTION 78. IC 31-19-25-3.5, AS ADDED BY P.L.191-2011, SECTION 44, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 3.5. The following persons shall send a copy of a written nonrelease form received by the person from a birth parent to the state registrar:

(1) The department.

(2) A ~~county~~ **local** office. ~~of family and children.~~

(3) A licensed child placing agency.

(4) A professional health care provider.

(5) An attorney.

(6) A court.

SECTION 79. IC 31-19-25-13, AS AMENDED BY P.L.145-2006, SECTION 263, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 13. (a) The following persons may charge a reasonable fee for actual expenses incurred in complying with this chapter:

(1) A licensed child placing agency.

(2) The court.

C o p y

(3) The department.

(4) A ~~county~~ **local** office. ~~of family and children.~~

(5) A professional health care provider.

(6) The state department of health, except as provided in subsection (b).

(b) The state department of health may not charge a fee for filing a nonrelease form under this chapter.

SECTION 80. IC 31-19-25-18, AS ADDED BY P.L.191-2011, SECTION 50, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 18. An individual who submits a request for the release of identifying information under section 2 of this chapter may contact:

(1) a ~~county~~ **local** office; ~~of family and children;~~

(2) a licensed child placing agency; or

(3) the attorney who arranged the adoption;

to request that the ~~county~~ **local** office, ~~of family and children,~~ the licensed child placing agency, or the attorney contact an adoptee whose consent is necessary before identifying information may be released under this chapter.

SECTION 81. IC 31-19-25-18.5, AS ADDED BY P.L.191-2011, SECTION 51, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 18.5. An attorney, a licensed child placing agency, and a ~~county~~ **local** office ~~of family and children~~ may not contact an adoptee, a birth parent, or an adoptive parent or disclose identifying information upon a request under section 18 of this chapter if the request involves an adoptee to whom both of the following apply:

(1) The adoptee is less than twenty-one (21) years of age.

(2) The adoptee's name is on the list provided to the state department of health under IC 31-25-2-22.

SECTION 82. IC 31-19-25-19, AS ADDED BY P.L.191-2011, SECTION 52, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 19. (a) Except as provided in section 18.5 of this chapter and subject to section 21 of this chapter, upon a request described under section 18 of this chapter, a ~~county~~ **local** office, ~~of family and children,~~ a licensed child placing agency, or an attorney that contacts an adoptee may not disclose identifying information unless the adoptee:

(1) if the adoptee is at least twenty-one (21) years of age, gives written consent; or

(2) if the adoptee is less than twenty-one (21) years of age, has the written consent of the adoptee's adoptive parents;

to the release of identifying information by the ~~county~~ **local** office, ~~of~~

C o p y

~~family and children,~~ the licensed child placing agency, or the attorney.

(b) If:

(1) an adoptee who is at least twenty-one (21) years of age; or

(2) an adoptive parent of an adoptee who is less than twenty-one (21) years of age;

consents to the release of identifying information but does not provide the consent in writing, the ~~county~~ **local** office, ~~of family and children~~, the licensed child placing agency, or the attorney may inform the birth parent regarding the fact that the adoptee or the adoptive parent has consented to the release of identifying information. The ~~county~~ **local** office, ~~of family and children,~~ the licensed child placing agency, or the attorney may inquire as to whether the adoptee or adoptive parent, whose consent is still needed before identifying information may be released, is interested in participating in the adoption registry under IC 31-19-18 through IC 31-19-24, this chapter, ~~or~~ **and** IC 31-19-25.5.

SECTION 83. IC 31-19-25-20, AS ADDED BY P.L.191-2011, SECTION 53, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 20. (a) A ~~county~~ **local** office, ~~of family and children,~~ a licensed child placing agency, or an attorney may charge a reasonable fee for services performed or actual expenses incurred under section 19 of this chapter.

(b) The following persons may charge a reasonable fee for actual expenses incurred in complying with this chapter:

(1) A licensed child placing agency.

(2) The court.

(3) The department.

(4) A ~~county~~ **local** office. ~~of family and children.~~

(5) A professional health care provider.

(6) An attorney.

(7) The state department of health.

SECTION 84. IC 31-19-27-2, AS AMENDED BY P.L.145-2006, SECTION 265, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 2. The department may:

(1) delegate a part of the program to a ~~county~~ **local** office; ~~of family and children;~~ and

(2) deliver a program service through a contract with another person.

SECTION 85. IC 31-19-29-5, AS AMENDED BY P.L.145-2006, SECTION 269, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 5. (a) A child with special needs resident in this state who is the subject of an adoption assistance agreement with another state shall be entitled to receive a medical

C o p y

assistance identification from this state upon the filing in the ~~county~~ **local** office ~~of family and children~~ for the county in which the child resides of a certified copy of the adoption assistance agreement obtained from the adoption assistance state. In accordance with rules of the department, the adoptive parents shall be required at least annually to show that the agreement is still in force or has been renewed.

(b) The department shall consider the holder of a medical assistance identification pursuant to this section as any other holder of a medical assistance identification under the laws of this state and shall process and make payment on claims on account of such holder in the same manner and pursuant to the same conditions and procedures as for other recipients of medical assistance.

(c) The department shall provide coverage and benefits for a child who is in another state and who is covered by an adoption assistance agreement made by the department for the coverage or benefits, if any, not provided by the residence state. To this end, the adoptive parents acting for the child may submit evidence of payment for services or benefit amounts not payable in the residence state and shall be reimbursed therefor. However, there shall be no reimbursement for services or benefit amounts covered under any insurance or other third party medical contract or arrangement held by the child or the adoptive parents. The department shall adopt rules implementing this subsection. The additional coverages and benefit amounts provided pursuant to this subsection shall be for services to the cost of which there is no federal contribution, or which, if federally aided, are not provided by the residence state. Among other things, such rules shall include procedures to be followed in obtaining prior approvals for services in those instances where required for the assistance.

(d) A person who submits any claim for payment or reimbursement for services or benefits pursuant to this section or makes any statement in connection therewith, which claim or statement the maker knows or should know to be false, misleading, or fraudulent commits a Class D felony.

(e) The provisions of this section shall apply only to medical assistance for children under adoption assistance agreements from states that have entered into a compact with this state under which the other state provides medical assistance to children with special needs under adoption assistance agreements made by this state. All other children entitled to medical assistance pursuant to adoption assistance agreements entered into by this state shall be eligible to receive it in accordance with the laws and procedures applicable thereto.

C o p y

SECTION 86. IC 31-25-2-5, AS AMENDED BY P.L.146-2008, SECTION 564, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 5. (a) The department shall ensure that the department maintains staffing levels of family case managers so that each ~~county~~ **region** has enough family case managers to allow caseloads to be at not more than:

(1) twelve (12) active cases relating to initial assessments, including investigations of an allegation of child abuse or neglect; or

(2) seventeen (17) children monitored and supervised in active cases relating to ongoing services.

(b) The department shall comply with the maximum caseload ratios described in subsection (a).

SECTION 87. IC 31-25-2-7, AS AMENDED BY P.L.146-2008, SECTION 565, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 7. (a) The department is responsible for the following:

(1) Providing child protection services under this article.

(2) Providing and administering child abuse and neglect prevention services.

(3) Providing and administering child services.

(4) Providing and administering family services.

(5) Providing family preservation services under IC 31-26-5.

(6) Regulating and licensing the following under IC 31-27:

(A) Child caring institutions.

(B) Foster family homes.

(C) Group homes.

(D) Child placing agencies.

(7) Administering the state's plan for the administration of Title IV-D of the federal Social Security Act (42 U.S.C. 651 et seq.).

(8) Administering foster care services.

(9) Administering independent living services (as described in 42 U.S.C. 677 et seq.).

(10) Administering adoption services.

(11) Certifying and providing grants to the youth services bureaus under IC 31-26-1.

(12) Administering the project safe program.

(13) Paying for programs and services as provided under IC 31-40.

(14) Obtaining on an annual basis a consumer report, as defined in 42 U.S.C. 1681a(d), for each child at least fifteen (15) years of age who is in state foster care.

C o p y

(b) This chapter does not authorize or require the department to:

(1) investigate or report on proceedings under IC 31-17-2 relating to a child who is not the subject of an open child in need of services case under IC 31-34; or

(2) otherwise monitor child custody or visitation in dissolution of marriage proceedings.

(c) This chapter does not authorize or require the department to:

(1) conduct home studies; or

(2) otherwise participate in guardianship proceedings under IC 29-3;

other than those over which the juvenile court has jurisdiction under IC 29-3-2-1(c) or IC 31-30-1-1(10).

SECTION 88. IC 31-25-2-20.4, AS AMENDED BY P.L.131-2009, SECTION 32, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 20.4. (a) The department shall establish at least three (3) citizen review panels in accordance with the requirements of the federal Child Abuse Prevention and Treatment Act under 42 U.S.C. 5106a.

(b) A citizen review panel consists of volunteer members who broadly represent the community in which the panel is established, including members who have expertise in the prevention and treatment of child abuse and neglect.

(c) The department shall appoint the citizen review panels in the following manner:

(1) One (1) panel must be a community child protection team established in a county under IC 31-33-3-1, selected by the director of the department with the consent of the team.

(2) One (1) panel must be either:

(A) the statewide child fatality review committee established under IC 31-33-25-6; or

(B) a local child fatality review team established under IC 31-33-24-6;

selected by the director of the department with the consent of the committee or team.

(3) One (1) panel must be a foster care advisory panel consisting of at least five (5) and not more than eleven (11) members, selected to the extent feasible from the membership of any foster care advisory group previously established or recognized by the department. If the panel consists of seven (7) or fewer members, the panel must include at least one (1) foster parent licensed by the department ~~through a county office~~ and one (1) foster parent licensed by the department through a child placing agency

C o p y

licensed under IC 31-27-6. If the panel consists of more than seven (7) members, the panel must include two (2) foster parents licensed by the department ~~through a county office~~ and two (2) foster parents licensed by the department through a child placing agency licensed under IC 31-27-6. Additional members of the panel must include one (1) or more individuals who are employed by a child placing agency licensed under IC 31-27-6 and who provide services to foster families and children placed by the department in out-of-home placements, and may include other representatives of child welfare service providers or persons who provide training to current or prospective foster parents. All members of this panel must be individuals who are not employees of the department.

(4) The membership of any additional citizen review panels established under this section shall be determined by the director of the department, consistent with the guidelines for panel membership stated in subsection (b) and the purposes and functions of the panels as described in this section.

(5) Each citizen review panel shall be appointed for a term of three (3) years beginning July 1, 2007. Upon expiration of the term of the panel described in subdivision (1), the director of the department shall select a community child protection team established in a different county for the succeeding term. Upon expiration of the term of the panel described in subdivision (2), the director of the department shall select a different fatality review team, or committee, if available, for the succeeding term. Panels appointed under subdivision (3) or (4) may be reappointed for successive terms, in the discretion of the director of the department. The director may appoint individuals as needed to fill vacancies that occur during the term of any panel appointed under subdivision (3) or (4).

(d) A citizen review panel shall evaluate the extent to which a child welfare agency is effectively discharging the agency's child protection responsibilities by examining:

(1) the policies and procedures of child welfare agencies;

(2) if appropriate, specific child protective services cases; and

(3) other criteria the citizen review panel considers important to ensure the protection of children.

(e) Each citizen review panel shall:

(1) meet at least one (1) time every three (3) months; and

(2) prepare and make available to the department and the public an annual report that contains a summary of the activities of the

C o p y

citizen review panel.

(f) The department shall, not more than six (6) months after the date the department receives a report from a citizen review panel under subsection (e), submit to the citizen review panel a written response indicating whether and how the department will incorporate the recommendations of the citizen review panel. The department shall at the same time provide appropriate child welfare agencies with copies of the department's written response.

(g) A child welfare agency shall make all reports and other materials in the child welfare agency's possession available to a citizen review panel established under this section, including any reports and materials that the child welfare agency has received from other agencies.

(h) A member of a citizen review panel may not disclose to a person or government official any identifying information that is provided to the citizen review panel about:

(1) a specific child protective services case or child welfare agency case;

(2) a child or member of the child's family who is the subject of a child protective services assessment; or

(3) any other individuals identified in confidential reports, documents, or other materials.

(i) If a member of a citizen review panel violates subsection (h), the department may remove the member from the citizen review panel.

(j) A child welfare agency shall cooperate and work with each citizen review panel established under this section.

SECTION 89. IC 31-25-4-17, AS AMENDED BY P.L.80-2010, SECTION 49, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 17. (a) The bureau shall do the following:

(1) Collect support payments when the payments have been assigned to the state by the application for assistance under Title IV-A.

(2) Assist in obtaining a support order, including an order for health insurance coverage under:

(A) IC 27-8-23;

(B) IC 31-14-11-3; or

(C) IC 31-16-6-4;

when there is no existing order and assistance is sought.

(3) Assist mothers of children born out of wedlock in establishing paternity and obtaining a support order, including an order for health insurance coverage under IC 27-8-23, when the mother has applied for assistance.

C o p y

(4) Implement income withholding in any Title IV-D case:
(A) with an arrearage; and
(B) without an order issued by a court or an administrative agency.
(5) Enforce intrastate and interstate support orders using high volume automated enforcement features.
(6) Use a simplified procedure for the review and adjustment of support orders as set forth in 42 U.S.C. 666(a)(10).
(7) In any Title IV-D case, petition:
(A) a court to:
(i) establish paternity for a child born out of wedlock; and
(ii) establish a support order, including an order for health insurance coverage under IC 27-8-23, IC 31-14-11-3, or IC 31-16-6-4; and
(B) a court to establish or modify a support order, including an order for health insurance coverage under IC 27-8-23, IC 31-14-11-3, or IC 31-16-6-4, if:
(i) there is no existing support order; or
(ii) the existing order does not include a provision for private health insurance.

(b) Whenever the bureau collects support payments on behalf of an individual who is no longer a member of a household that receives Title IV-A cash payments, the collected support payments (except collections made through a federal tax refund offset) shall be promptly distributed in the following order:
(1) Payment to the recipient of the court ordered support obligation for the month that the support payment is received.
(2) Payment to the recipient of the support payment arrearages that have accrued during any period when the recipient was not a member of a household receiving Title IV-A assistance.
(3) Payment to the state in an amount not to exceed the lesser of:
(A) the total amount of past public assistance paid to the recipient's family; or
(B) the amount assigned to the state by the recipient under IC 12-14-7-1.
(4) Payment of support payment arrearages owed to the recipient.
(5) Payment of any other support payments payable to the recipient.

(c) Whenever the bureau receives a payment through a federal tax refund offset on behalf of an individual who has received or is receiving Title IV-A assistance, the child support payment shall be distributed as follows:

C o p y

(1) To the state, an amount not to exceed the lesser of:

(A) the total amount of past public assistance paid to the individual's family; or

(B) the amount assigned to the state by the individual under IC 12-14-7-1.

(2) To the individual, any amounts remaining after the distribution under subdivision (1).

(d) Except as provided in section 19.5 of this chapter, whenever the bureau collects a child support payment from any source on behalf of an individual who has never received Title IV-A assistance, the bureau shall forward all money collected to the individual.

(e) Whenever the bureau receives a child support payment on behalf of an individual who currently receives a Title IV-A cash payment or an individual whose cash payment was recouped, the child support payment shall be distributed as follows:

(1) To the state, an amount not to exceed the lesser of:

(A) the total amount of past public assistance paid to the individual's family; or

(B) the amount assigned to the state by the individual under IC 12-14-7-1.

(2) To the individual, any amounts remaining after the distribution under subdivision (1).

(f) Unless otherwise required by federal law, not more than seventy-five (75) days after a written request by a recipient, the bureau shall provide an accounting report to the recipient that identifies the bureau's claim to a child support payment or arrearage.

(g) The bureau, the department of child services, and the department of state revenue may not charge a custodial parent a fee to seek or receive a payment through a federal tax refund offset as described in subsection (c).

(h) When the payment of support has been assigned to the state by the application of assistance under Title IV-A or Title IV-E, the Title IV-D agency shall:

(1) first provide notice to the obligee and the obligor that the payment of support has been assigned to the state; and

(2) direct the clerk of court or the state central collection unit to forward the child support payment directly to the Title IV-D agency without further notice of the court.

(i) A payment directed to the Title IV-D agency under subsection (h) shall be disbursed in accordance with federal regulations governing the Title IV-D program.

SECTION 90. IC 31-25-4-19, AS ADDED BY P.L.145-2006,

C o p y

SECTION 271, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 19. All services provided under section 17 of this chapter and IC 31-25-3-2 must be available to individuals (other than recipients or applicants for the federal Temporary Assistance for Needy Families (TANF) program (45 CFR 265)) upon application for the services, ~~when accompanied by the payment of~~ **as required by 42 U.S.C. 654(6).** An application fee as set by the Title IV-D agency **must be paid in accordance with the department's rules adopted under IC 4-22-2.** Fees other than the application fee must be imposed in accord with federal law governing this program.

SECTION 91. IC 31-26-2 IS REPEALED [EFFECTIVE JULY 1, 2012]. (Assistance of Destitute Children).

SECTION 92. IC 31-26-6-9, AS ADDED BY P.L.146-2008, SECTION 571, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 9. In preparing the plan under section 5 of this chapter, a regional services council shall review and consider existing publicly and privately funded programs that are available or that could be made available in the regional services council's service region to provide supportive services to or for the benefit of children described in section 5 of this chapter without removing the child from the family home, including programs funded through the following:

(1) Title IV-B of the Social Security Act (42 U.S.C. 620 et seq.).

(2) Title IV-E of the Social Security Act (42 U.S.C. 670 et seq.).

(3) Title XX of the Social Security Act (42 U.S.C. 1397 et seq.).

(4) The Child Abuse Prevention and Treatment Act (42 U.S.C. 5106 et seq.).

(5) Special education programs under IC 20-35-6-2.

(6) All programs designed to prevent child abuse, neglect, or delinquency, or to enhance child welfare and family preservation administered by, or through funding provided by, the department, ~~county offices,~~ prosecuting attorneys, or juvenile courts, including programs funded under IC 31-26-3.5 and IC 31-40.

~~(7) A child advocacy fund under IC 12-17-17.~~

SECTION 93. IC 31-27-2-1, AS AMENDED BY P.L.1-2007, SECTION 201, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 1. The department shall perform the following duties:

(1) Administer the licensing and monitoring of child caring institutions, foster family homes, group homes, and child placing agencies in accordance with this article.

C o p y

(2) Ensure that a criminal history ~~background~~ check of an applicant is ~~completed~~ **conducted under IC 31-9-2-22.5** before issuing a license.

(3) Provide for the issuance, denial, and revocation of licenses.

(4) Cooperate with governing bodies of child caring institutions, foster family homes, group homes, and child placing agencies and their staffs to improve standards of child care.

(5) Prepare at least biannually a directory of licensees, except for foster family homes, with a description of the program capacity and type of children served that will be distributed to the legislature, licensees, and other interested parties as a public document.

(6) Deposit all license application fees collected under section 2 of this chapter in the department of child services child care fund established by IC 31-25-2-16.

SECTION 94. IC 31-27-2-2, AS ADDED BY P.L.145-2006, SECTION 273, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 2. The department may do the following:

(1) Prescribe forms for reports, statements, notices, and other documents required by this article or by the rules adopted under this article.

(2) Increase public awareness of this article and the rules adopted under this article by preparing and publishing manuals and guides explaining this article and the rules adopted under this article.

(3) Facilitate compliance with and enforcement of this article through the publication of materials under subdivision (2).

(4) Prepare reports and studies to advance the purpose of this article.

(5) Seek the advice and recommendations of state agencies whose information and knowledge would be of assistance in writing, revising, or monitoring rules developed under this article. These agencies, including the office of the attorney general, state department of health, division of mental health and addiction, ~~bureau of criminal identification and investigation,~~ **division of family resources, the state police department,** and fire prevention and building safety commission, shall upon request supply necessary information to the department.

(6) Make the directory of licensees available to the public for a charge not to exceed the cost of reproducing the directory.

(7) Charge a reasonable processing fee for each license application and renewal as follows:

C o p y

(A) For a child caring institution or group home license, a fee not to exceed three dollars ($3) for each licensed bed based on total licensed bed capacity not to exceed a maximum fee of one hundred fifty dollars ($150).

(B) For a child placing agency license, a fee not to exceed fifty dollars ($50).

(8) Exercise any other regulatory and administrative powers necessary to carry out the functions of the department.

SECTION 95. IC 31-27-2-4, AS AMENDED BY P.L.162-2011, SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 4. (a) The department shall adopt rules under IC 4-22-2, including emergency rules under IC 4-22-2-37.1, concerning the licensing and inspection of:

(1) child caring institutions, foster family homes, group homes, and child placing agencies after consultation with the following:

~~(1)~~ **(A)** State department of health.

~~(2)~~ **(B)** Fire prevention and building safety commission; **and**

(2) child caring institutions and group homes that are licensed for infants and toddlers after consultation with the division of family resources.

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

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

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

(1) Admission criteria.

(2) General physical and environmental conditions.

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

(4) Procedures for ongoing monitoring and discharge planning.

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

(e) The department shall license a facility as a secure private facility if the facility:

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

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

(3) is

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

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

C o p y

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

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

SECTION 96. IC 31-27-3-3, AS AMENDED BY P.L.162-2011, SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 3. (a) An applicant must apply for a child caring institution license on forms provided by the department.

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

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

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

(A) a felony; or

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

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

(A) a felony; or

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

during the pendency of the application.

(d) 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) a conviction for a felony;

C o p y

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

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

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

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

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

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

(h) A criminal history check of a person described in subsection (d)(2) or (d)(3) must be completed on or before the date the person:

(1) is employed; ~~or~~

(2) is assigned as a volunteer; **or**

(3) has direct contact on a regular and continuing basis with a child who is or will be placed in a facility operated by the applicant. ~~However, a fingerprint based criminal history background check under IC 31-9-2-22.5(1)(B) for a person described in subsection (d)(3) must be completed not later than the conclusion of the first ninety (90) days of employment in or assignment of a volunteer to a position described in subsection (d)(3). If a person described in this subsection has been the subject of a criminal history check (as described in IC 31-9-2-22.5) that was conducted not more than one (1) year before the date the license application is submitted to the department, a new criminal history check of that person is not required.~~

~~(i) An applicant or licensee may provisionally employ an individual or assign a volunteer described in subsection (d)(3) for whom a criminal history check is required under subsection (d)(3) during the period after the process of requesting fingerprint based criminal history background check information has been initiated by or on behalf of the applicant or licensee but before the determination is obtained by or communicated to the applicant or licensee. If the determination is not~~

Copy

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

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

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

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

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

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

(i) The applicant or facility is responsible for any fees associated with a criminal history check.

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

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

SECTION 97. IC 31-27-3-5, AS AMENDED BY P.L.162-2011, SECTION 24, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: 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.

C o p y

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

(A) a felony;

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

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

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

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

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

(5) A determination by the department that:

(A) the applicant; or

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

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

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

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

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

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

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

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

C o p y

(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 **before the employee or volunteer has direct contact on a regular and continuing basis with a child who is or will be placed in a facility operated** 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 98. IC 31-27-3-11, AS ADDED BY P.L.145-2006, SECTION 273, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 11. (a) The department shall deny a license when an applicant fails to meet the requirements for a license.

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

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

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

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

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

SECTION 99. IC 31-27-3-13, AS ADDED BY P.L.146-2006, SECTION 27, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 13. (a) A license for a child caring institution expires four (4) years after the date of issuance, unless the license is revoked ~~modified to a probationary status,~~ or voluntarily returned.

(b) A license issued under this chapter:

(1) is not transferable;

(2) applies only to the licensee and the location stated in the

C o p y

application; and

(3) remains the property of the department.

(c) When a licensee submits a timely application for renewal, the current license remains in effect until the department issues a license or denies the application.

(d) A current license must be publicly displayed.

SECTION 100. IC 31-27-3-16, AS ADDED BY P.L.145-2006, SECTION 273, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 16. A licensee shall cooperate with the department, ~~and~~ the state fire marshal, **and any other state agency working on behalf of the department** in carrying out the activities required by section 15 of this chapter, including permitting the department, ~~and~~ the state fire marshal, **and any other state agency working on behalf of the department** to conduct announced or unannounced inspections.

SECTION 101. IC 31-27-3-20, AS ADDED BY P.L.145-2006, SECTION 273, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 20. ~~(a)~~ An administrative hearing concerning the decision of the department to impose a sanction under this chapter shall be provided upon a written request by the child caring institution. The request must be made not more than thirty (30) days after receiving notice under section 19 of this chapter. The written request must be made separately from an informal meeting request made under section 19 of this chapter.

~~(b) An administrative hearing shall be held not more than sixty (60) days after receiving the written request.~~

SECTION 102. IC 31-27-3-22 IS REPEALED [EFFECTIVE JULY 1, 2012]. ~~Sec. 22. The department shall issue a decision not more than sixty (60) days after the conclusion of a hearing.~~

SECTION 103. IC 31-27-3-28 IS REPEALED [EFFECTIVE JULY 1, 2012]. ~~Sec. 28. A final decision of the department made after a hearing is subject to judicial review under IC 4-21.5-5.~~

SECTION 104. IC 31-27-3-29, AS ADDED BY P.L.145-2006, SECTION 273, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 29. (a) The department shall investigate a report of a licensed child caring institution's noncompliance with this article or the rules adopted under this article. If there is reasonable cause to believe that a licensee's noncompliance with this article and rules adopted under this article creates an imminent danger of serious bodily injury to a child or an imminent danger to the health of a child, ~~and~~ **the department** shall report the department's findings to the attorney general and to the ~~county~~ **local**

C o p y

office and the prosecuting attorney in the county where the institution is located.

(b) The attorney general or the department may do the following:

(1) Seek the issuance of a search warrant to assist in the investigation.

(2) File an action for injunctive relief to stop the operation of a child caring institution if there is reasonable cause to believe that a licensee's noncompliance with this article or the rules adopted under this article creates an imminent danger of serious bodily injury to a child or an imminent danger to the health of a child.

(c) The department may require a plan of corrective action, **including a hold on new placements,** for emergency protection of the children described in subsection (b).

(d) The department may provide for the removal of children from child caring institutions described in subsection (b).

(e) An opportunity for an informal meeting with the department shall be available after the injunctive relief is ordered.

SECTION 105. IC 31-27-3-30, AS ADDED BY P.L.145-2006, SECTION 273, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 30. A court order granted under section 29(b)(2) of this chapter expires upon the later of the following:

(1) Sixty (60) days after the order is issued.

(2) When a final department decision is issued under sections 20 ~~through 22~~ **and 21** of this chapter if notice of an enforcement action is issued under section 19 of this chapter.

SECTION 106. IC 31-27-3-32, AS ADDED BY P.L.146-2006, SECTION 30, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 32. (a) A licensee shall operate a child caring institution in compliance with the rules established under this article and is subject to the disciplinary sanctions under subsection (b) if the department finds that the licensee has violated this article or a rule adopted under this article.

(b) After complying with the procedural provisions in sections 19 through ~~22~~ **21** of this chapter, the department may revoke the license when the department finds that a licensee has committed a violation under subsection (a).

SECTION 107. IC 31-27-3-33, AS AMENDED BY P.L.1-2007, SECTION 202, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 33. (a) The department shall investigate a report of an unlicensed child caring institution and report the department's findings to the attorney general and to the ~~county~~ **local** office and the prosecuting attorney in the county where the institution

C o p y

is located.

(b) The attorney general or the department may do the following:

(1) Seek the issuance of a search warrant to assist in the investigation.

(2) File an action for injunctive relief to stop the operation of a child caring institution if there is reasonable cause to believe that the child caring institution is operating without a license required under this article.

(3) Seek in a civil action a civil penalty not to exceed one hundred dollars ($100) a day for each day a child caring institution is operating without a license required under this article.

(c) An opportunity for an informal meeting with the department shall be available after the injunctive relief is ordered.

(d) The civil penalties collected under this section shall be deposited in the department of child services child care fund established by IC 31-25-2-16.

SECTION 108. IC 31-27-4-5, AS AMENDED BY P.L.162-2011, SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 5. (a) An applicant must apply for a foster family home license on forms provided by the department.

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

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

(1) Whether the applicant has been convicted of:

(A) a felony; or

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

(2) Whether the applicant has been charged with:

(A) a felony; or

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

during the pendency of the application.

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

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

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

C o p y

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

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

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

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

(A) a conviction for a felony;

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

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

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

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

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

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

(i) ~~With the exception of a fingerprint based criminal history background check under IC 31-9-2-22.5(1)(B) for a person described in subsection (e)(1),~~ A criminal history check concerning a person described in subsection (e) must be completed on or before the ~~date on which the subject of the check is first employed or assigned as a volunteer in a position described in subsection (e)(1)~~ **date the employee or volunteer has direct contact on a regular and continuing basis with a child placed in the home** or **the person** first becomes a resident of the applicant's household as described in subsection (e)(2). ~~A fingerprint based criminal history background check under IC 31-9-2-22.5(1)(B) for a person described in subsection (e)(1) must be completed not later than the conclusion of the first ninety (90) days of employment in or assignment of a volunteer. However, if a person described in this subsection has been the subject~~

C o p y

~~of a criminal history check that was conducted not more than one (1) year before the date the license application is submitted to the department, a new criminal history check of that person is not required.~~

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

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

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

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

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

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

(j) The applicant is responsible for any fees associated with a criminal history check.

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

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

Copy

SECTION 109. IC 31-27-4-6, AS AMENDED BY P.L.162-2011, SECTION 29, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 6. (a) The following constitute sufficient grounds for a denial of a license application:

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

(A) the applicant;

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

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

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

(A) a felony;

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

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

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

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

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

(5) A determination by the department that:

(A) the applicant;

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

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

previously operated a child care center or child care home without a license under IC 12-17.2-5 or a foster family home without a license under this chapter (or IC 12-17.4-4 before its repeal).

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

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

Copy

waiver by the department to employ or assign the person as a volunteer in a position described in this subsection or to permit the individual to reside in the applicant's residence.

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

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

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

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

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

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

(3) Evidence of rehabilitation.

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

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

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

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

(2) the department determines that the employee or volunteer has been dismissed **before the employee or volunteer has direct contact on a regular and continuing basis with a child who is or will be placed in a facility operated** by the applicant or that the person residing in the residence no longer resides there;

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

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

SECTION 110. IC 31-27-4-13, AS AMENDED BY P.L.162-2011, SECTION 31, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 13. (a) The department shall deny a license when an applicant fails to meet the requirements for a license. The department shall deny a license to an applicant who has been convicted of any of the following felonies:

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

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

C o p y

(3) Assisting suicide (IC 35-42-1-2.5).
(4) Voluntary manslaughter (IC 35-42-1-3).
(5) Reckless homicide (IC 35-42-1-5).
(6) Battery (IC 35-42-2-1) within the past five (5) years.
(7) Domestic battery (IC 35-42-2-1.3).
(8) Aggravated battery (IC 35-42-2-1.5).
(9) Kidnapping (IC 35-42-3-2).
(10) Criminal confinement (IC 35-42-3-3) within the past five (5) years.
(11) A felony sex offense under IC 35-42-4.
(12) Carjacking (IC 35-42-5-2) within the past five (5) years.
(13) Arson (IC 35-43-1-1) within the past five (5) years.
(14) Incest (IC 35-46-1-3).
(15) Neglect of a dependent (IC 35-46-1-4(a)(1) and IC 35-46-1-4(a)(2)).
(16) Child selling (IC 35-46-1-4(d)).
(17) A felony involving a weapon under IC 35-47 or IC 35-47.5 within the past five (5) years.
(18) A felony relating to controlled substances under IC 35-48-4 within the past five (5) years.
(19) An offense relating to material or a performance that is harmful to minors or obscene under IC 35-49-3.
(20) A felony under IC 9-30-5.
~~(20)~~ **(21)** A felony that is substantially equivalent to a felony listed in subdivisions (1) through ~~(19)~~ **(20)** for which the conviction was entered in another state.

(b) The department may deny a license to an applicant who:
(1) has been convicted of a felony that is not listed in subsection (a); or
(2) has had a juvenile adjudication for an act listed in subsection (a) that, if committed by an adult, would be a felony.

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

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

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

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

~~(g) The department shall issue a decision not more than sixty (60)~~

C o p y

~~days after the conclusion of a hearing.~~

SECTION 111. IC 31-27-4-16, AS ADDED BY P.L.146-2006, SECTION 31, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 16. (a) A license for a foster family home ~~expires~~ **is valid for** four (4) years ~~after~~ **from** the date of issuance, unless the license is revoked ~~modified to a probationary status,~~ or voluntarily returned.

(b) A license issued under this chapter:

(1) is not transferable;

(2) applies only to the licensee and the location stated in the application; and

(3) remains the property of the department.

(c) A foster family home shall have the foster family home's license available for inspection.

(d) ~~If a licensee submits a timely application for renewal,~~ **To extend a license an additional four (4) years, the home must apply for relicensure.** The current license shall remain in effect **during the relicensure process** until the department issues a license or denies the application.

SECTION 112. IC 31-27-4-23, AS ADDED BY P.L.145-2006, SECTION 273, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 23. ~~(a)~~ An administrative hearing concerning the decision of the department to impose a sanction under this chapter shall be provided upon a written request by the licensee. The request must be made not more than thirty (30) calendar days after the licensee receives notice under section 22 of this chapter. The written request must be made separately from an informal meeting request made under section 22 of this chapter.

~~(b) An administrative hearing shall be held not more than sixty (60) days after the department receives a written request under subsection (a).~~

SECTION 113. IC 31-27-4-25 IS REPEALED [EFFECTIVE JULY 1, 2012]. ~~Sec. 25. The department shall issue a decision not more than sixty (60) days after the conclusion of a hearing.~~

SECTION 114. IC 31-27-4-31 IS REPEALED [EFFECTIVE JULY 1, 2012]. ~~Sec. 31. A final decision of the department made after a hearing is subject to judicial review under IC 4-21.5-5.~~

SECTION 115. IC 31-27-4-33, AS AMENDED BY P.L.162-2011, SECTION 33, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 33. (a) A licensee shall operate a foster family home in compliance with the rules established under this article and is subject to the disciplinary sanctions under subsection (b) if the

C o p y

department finds that the licensee has violated this article or a rule adopted under this article.

(b) After complying with the procedural provisions in sections 22 through ~~25~~ **24** of this chapter, the department may revoke the license when the department finds that a licensee has committed a violation under subsection (a). However, the department shall permanently revoke the license of a licensee who has been convicted of any of the felonies described in section 13(a) of this chapter. The department may permanently revoke the license of a person who has been convicted of a felony that is not described in section 13(a) of this chapter **and for other reasons set forth in rules adopted by the department.**

SECTION 116. IC 31-27-4-34, AS AMENDED BY P.L.1-2007, SECTION 203, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 34. (a) The department shall investigate a report of an unlicensed foster family home and report the department's findings to the attorney general and to the ~~county~~ **local** office and the prosecuting attorney in the county where the foster family home is located.

(b) The attorney general or the department may do the following:

(1) Seek the issuance of a search warrant to assist in the investigation.

(2) File an action for injunctive relief.

(3) Seek in a civil action a civil penalty not to exceed one hundred dollars ($100) a day for each day a foster family home is operating without a license required under this article.

(c) The civil penalties collected under this section shall be deposited in the department of child services child care fund established by IC 31-25-2-16.

SECTION 117. IC 31-27-5-4, AS AMENDED BY P.L.162-2011, SECTION 34, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 4. (a) An applicant must apply for a group home license on forms provided by the department.

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

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

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

(A) a felony; or

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

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

(A) a felony; or

C o p y

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

during the pendency of the application.

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

(1) Each individual who is an applicant.

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

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

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

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

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

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

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

(A) conviction for a felony;

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

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

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

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

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

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

(h) A criminal history check of a person described in subsection (d)(2) or (d)(3) must be completed on or before the date on which the

C o p y

subject of the check is employed or assigned as a volunteer **or has direct contact on a regular and continuing basis with a child who is or will be placed in a facility operated by an applicant.** ~~However, a fingerprint based criminal history background check under IC 31-9-2-22.5(1)(B) for a person described in subsection (d) must be completed not later than the conclusion of the first ninety (90) days of employment in or assignment of a volunteer to a position described in subsection (d). If a person described in this subsection has been the subject of a criminal history check (as described in IC 31-9-2-22.5) that was conducted not more than one (1) year before the date the license application is submitted to the department, a new criminal history check of that person is not required.~~

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

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

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

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

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

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

(i) The applicant is responsible for any fees associated with a criminal history check.

(j) The department shall, at the applicant's request, inform the applicant as to whether the department has or does not have a record of

C o p y

the person who is the subject of a criminal history ~~background~~ check and whether the department has identified the person as an alleged perpetrator of abuse or neglect. The department may not provide to the applicant any details or personally identifying information contained in any child protective services investigation report.

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

SECTION 118. IC 31-27-5-6, AS AMENDED BY P.L.162-2011, SECTION 35, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 6. (a) The following constitute sufficient grounds for a denial of a license application:

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

(A) the applicant; or

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

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

(A) A felony.

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

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

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

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

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

(5) A determination by the department that:

(A) the applicant; or

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

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

C o p y

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

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

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

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

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

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

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

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

(3) Evidence of rehabilitation.

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

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

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

(2) the department determines that the employee or volunteer has been dismissed **before the employee or volunteer has direct contact on a regular and continuing basis with a child who is or will be placed in a facility** 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 119. IC 31-27-5-12, AS ADDED BY P.L.145-2006, SECTION 273, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 12. (a) The department shall deny a license when an applicant fails to meet the requirements for a license.

(b) The department shall send the applicant written notice by

C o p y

certified mail that the application has been denied and give the reasons for the denial.

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

~~(d) An administrative hearing shall be held not more than sixty (60) days after the department receives a written request under subsection (c).~~

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

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

SECTION 120. IC 31-27-5-14, AS ADDED BY P.L.146-2006, SECTION 35, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 14. (a) A license for a group home expires four (4) years after the date of issuance, unless the license is revoked ~~modified to a probationary status,~~ or voluntarily returned.

(b) A license issued under this chapter:

(1) is not transferable;

(2) applies only to the licensee and the location stated in the application; and

(3) remains the property of the department.

(c) A current license shall be publicly displayed.

(d) If a licensee submits a timely application for renewal, the current license remains in effect until the department issues a license or denies the application.

SECTION 121. IC 31-27-5-17, AS ADDED BY P.L.145-2006, SECTION 273, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 17. A licensee shall cooperate with the department, ~~and~~ the state fire marshal, **and any other state agency working on behalf of the department** in carrying out the activities required by section 16 of this chapter, including permitting the department, ~~and~~ the state fire marshal, **or any other state agency working on behalf of the department** to conduct announced or unannounced inspections.

SECTION 122. IC 31-27-5-20, AS ADDED BY P.L.145-2006, SECTION 273, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 20. ~~(a)~~ An administrative hearing concerning the decision of the department to impose a sanction under this chapter shall be provided upon a written request by the licensee. The request must be made not more than thirty (30) days after the

C o p y

licensee receives notice under section 19 of this chapter. The written request must be made separately from an informal meeting request made under section 19 of this chapter.

~~(b) An administrative hearing shall be held not more than sixty (60) days after the department receives a written request under subsection (a).~~

SECTION 123. IC 31-27-5-22 IS REPEALED [EFFECTIVE JULY 1, 2012]. ~~Sec. 22. The department shall issue a decision not more than sixty (60) days after the conclusion of a hearing under section 20 of the chapter.~~

SECTION 124. IC 31-27-5-28 IS REPEALED [EFFECTIVE JULY 1, 2012]. ~~Sec. 28. A final decision of the department made after a hearing is subject to judicial review under IC 4-21.5-5.~~

SECTION 125. IC 31-27-5-29, AS ADDED BY P.L.145-2006, SECTION 273, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 29. (a) The department shall investigate a report of a licensed group home's noncompliance with this article and the rules adopted under this article. If there is reasonable cause to believe that noncompliance with this article and rules adopted under this article creates an imminent danger of serious bodily injury to a child or an imminent danger to the health of a child, the department shall report its findings to the attorney general and to the ~~county~~ **local** office and the prosecuting attorney in the county where the group home is located.

(b) The attorney general or the department may do the following:

(1) Seek the issuance of a search warrant to assist in the investigation.

(2) File an action for injunctive relief to stop the operation of a group home if there is reasonable cause to believe that the group home's noncompliance with this article and the rules adopted under this article creates an imminent danger of serious bodily injury to a child or an imminent danger to the health of a child.

(c) The department may require a plan of corrective action for emergency protection of children described in subsection (b).

(d) The department may provide for the removal of children from a group home described in subsection (b).

(e) An opportunity for an informal meeting with the department shall be available after injunctive relief is ordered under subsection (b)(2).

SECTION 126. IC 31-27-5-30, AS ADDED BY P.L.145-2006, SECTION 273, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 30. A court order granted under

C o p y

section 29(b)(2) of this chapter expires upon the later of the following:

(1) Sixty (60) days after the order is issued.

(2) When a final departmental decision is issued under sections 20 through ~~22~~ **21** of this chapter if notice of an enforcement action is issued under section 19 of this chapter.

SECTION 127. IC 31-27-5-32, AS ADDED BY P.L.146-2006, SECTION 38, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 32. (a) A licensee shall operate a group home in compliance with the rules established under this article and is subject to the disciplinary sanctions under subsection (b) if the department finds that the licensee has violated this article or a rule adopted under this article.

(b) After complying with the procedural provisions in sections 19 through ~~22~~ **21** of this chapter, the department may revoke the license when the department finds that a licensee has committed a violation under subsection (a).

SECTION 128. IC 31-27-5-33, AS AMENDED BY P.L.1-2007, SECTION 204, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 33. (a) The department shall investigate a report of an unlicensed group home and report the department's findings to the attorney general and to the ~~county~~ **local** office and the prosecuting attorney in the county where the group home is located.

(b) The attorney general or the department may do the following:

(1) Seek the issuance of a search warrant to assist in the investigation.

(2) File an action for injunctive relief to stop the operation of a group home if there is reasonable cause to believe that the group home is operating without a license required under this article.

(3) Seek in a civil action a civil penalty not to exceed one hundred dollars ($100) a day for each day a group home is operating without a license required under this article.

(c) An opportunity for an informal meeting with the department shall be available after injunctive relief is ordered under subsection (b)(2).

(d) The civil penalties collected under this section shall be deposited in the department of child services child care fund established by IC 31-25-2-16.

SECTION 129. IC 31-27-6-2, AS AMENDED BY P.L.162-2011, SECTION 37, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 2. (a) An applicant must apply for a child placing agency license on forms provided by the department.

C o p y

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

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

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

(A) a felony; or

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

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

(A) a felony; or

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

during the pendency of the application.

(d) 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:

(A) conviction for a felony;

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

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

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

C o p y

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

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

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

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

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

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

C o p y

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

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

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

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

(i) The applicant or facility is responsible for any fees associated with a criminal history check.

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

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

SECTION 130. IC 31-27-6-3, AS AMENDED BY P.L.162-2011, SECTION 38, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 3. (a) The following constitute sufficient grounds for denial of a license application:

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

(A) the applicant; or

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

(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

C o p y

false statements in the applicant's application for licensure.

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

(5) A determination by the department that:

(A) the applicant; or

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

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

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

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

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

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

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

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

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

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

(3) Evidence of rehabilitation.

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

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

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

(2) the department determines that the employee or volunteer has been dismissed **before the employee or volunteer has direct**

C o p y

contact on a regular and continuing basis with a child who is or will be placed in a facility operated 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 131. IC 31-27-6-8, AS ADDED BY P.L.145-2006, SECTION 273, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 8. (a) The department shall deny a license when an applicant fails to meet the requirements for a license.

(b) If the department denies an applicant a license under subsection (a), the department shall send the applicant written notice by certified mail that the application has been denied and give the reasons for the denial.

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

~~(d) An administrative hearing shall be held not more than sixty (60) days after the department receives a written request under subsection (c).~~

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

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

SECTION 132. IC 31-27-6-10, AS ADDED BY P.L.146-2006, SECTION 39, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 10. (a) A license for a child placing agency expires four (4) years after the date of issuance, unless the license is revoked ~~modified to a probationary status,~~ or voluntarily returned.

(b) A license issued under this chapter:

(1) is not transferable;

(2) applies only to the licensee and the location stated in the application; and

(3) remains the property of the department.

(c) A child placing agency shall have the child placing agency's license available for inspection.

(d) If a licensee submits a timely application for renewal, the current license shall remain in effect until the department issues a license or denies the application.

SECTION 133. IC 31-27-6-14, AS ADDED BY P.L.145-2006, SECTION 273, IS AMENDED TO READ AS FOLLOWS

C o p y

[EFFECTIVE JULY 1, 2012]: Sec. 14. The licensee shall cooperate with the department **and any other state agency working on behalf of the department** in carrying out the activities required by sections 12 through 13 of this chapter, including permitting the department to conduct announced or unannounced inspections.

SECTION 134. IC 31-27-6-17, AS ADDED BY P.L.145-2006, SECTION 273, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 17. ~~(a)~~ An administrative hearing concerning the decision of the department to impose a sanction under this chapter shall be provided upon a written request by the licensee. The request must be made not more than thirty (30) days after the licensee receives notice under section 16 of this chapter. The written request must be made separately from an informal meeting request made under section 16 of this chapter.

~~(b) An administrative hearing shall be held not more than sixty (60) days after the department receives a written request under subsection (a).~~

SECTION 135. IC 31-27-6-19 IS REPEALED [EFFECTIVE JULY 1, 2012]. ~~Sec. 19. The department shall issue a decision not more than sixty (60) days after the conclusion of a hearing under section 17 of this chapter.~~

SECTION 136. IC 31-27-6-25 IS REPEALED [EFFECTIVE JULY 1, 2012]. ~~Sec. 25. A final decision of the department made after a hearing is subject to judicial review under IC 4-21.5-5.~~

SECTION 137. IC 31-27-6-26, AS ADDED BY P.L.145-2006, SECTION 273, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 26. (a) The department shall investigate a report of a licensed child placing agency's noncompliance with this article and the rules adopted under this article. If there is reasonable cause to believe that a licensee's noncompliance with this article and rules adopted under this article creates an imminent danger of serious bodily injury to a child or an imminent danger to the health of a child, ~~and~~ **the department shall** report the department's findings to the attorney general and to the ~~county~~ **local** office and the prosecuting attorney in the county where the child placing agency is located.

(b) The attorney general or the department may do the following:

(1) Seek the issuance of a search warrant to assist in the investigation.

(2) File an action for injunctive relief to stop the operation of a child placing agency if there is reasonable cause to believe that a licensee's noncompliance with this article and the rules adopted

C o p y

under this article creates an imminent danger of serious bodily injury to a child or an imminent danger to the health of a child.

(c) The department may require a plan of corrective action, **including a hold on new placements,** for emergency protection of the children described in subsection (b).

(d) An opportunity for an informal meeting with the department shall be available after injunctive relief is ordered under subsection (b)(2).

SECTION 138. IC 31-27-6-27, AS ADDED BY P.L.145-2006, SECTION 273, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 27. A court order granted under section 26(b)(2) of this chapter expires upon the later of the following:

(1) Sixty (60) days after the order is issued.

(2) When a final department decision is issued under sections 16 through ~~19~~ **18** of this chapter if notice of an enforcement action is issued under section 16 of this chapter.

SECTION 139. IC 31-27-6-29, AS ADDED BY P.L.146-2006, SECTION 42, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 29. (a) A licensee shall operate a child placing agency in compliance with the rules established under this article and is subject to the disciplinary sanctions under subsection (b) if the department finds that the licensee has violated this article or a rule adopted under this article.

(b) After complying with the procedural provisions in sections 16 through ~~19~~ **18** of this chapter, the department may revoke the license when the department finds that a licensee has committed a violation under subsection (a).

SECTION 140. IC 31-27-6-30, AS AMENDED BY P.L.1-2007, SECTION 205, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 30. (a) The department shall investigate a report of an unlicensed child placing agency and report the department's findings to the attorney general and to the ~~county~~ **local** office and the prosecuting attorney in the county where the child placing agency is located.

(b) The attorney general or the department may do the following:

(1) Seek the issuance of a search warrant to assist in the investigation.

(2) File an action for injunctive relief to stop the operation of a child placing agency if there is reasonable cause to believe that the child placing agency is operating without a license required under this article.

(3) Seek in a civil action a civil penalty not to exceed one hundred

C o p y

dollars ($100) a day for each day a child placing agency is operating without a license required under this article.

(c) An opportunity for an informal meeting with the department shall be available after injunctive relief is ordered under subsection (b)(2).

(d) The civil penalties collected under this section shall be deposited in the department of child services child care fund, established by IC 31-25-2-16.

SECTION 141. IC 31-28-1-1, AS ADDED BY P.L.145-2006, SECTION 274, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 1. This chapter applies to children who receive foster care that is funded by the department. ~~or a county office.~~

SECTION 142. IC 31-28-1-3, AS ADDED BY P.L.145-2006, SECTION 274, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 3. The ~~county~~ **local** office of the county in which a foster child resides shall maintain a health summary record for the foster child. The provider that has provided ongoing care to the child shall complete the record. The record must include the following:

(1) A summary of health care provided to the child.

(2) Recommendations for future health care needs of the child.

SECTION 143. IC 31-28-1-4, AS ADDED BY P.L.145-2006, SECTION 274, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 4. The ~~county~~ **local** office shall obtain the record from the provider required under section 3 of this chapter when the child:

(1) is placed in foster care; and

(2) is returned to the natural parents, adopted, or placed in another permanent plan.

SECTION 144. IC 31-28-2-1, AS ADDED BY P.L.145-2006, SECTION 274, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 1. This chapter applies to children who receive foster care that is funded by the department. ~~or a county office.~~

SECTION 145. IC 31-28-2-2, AS ADDED BY P.L.145-2006, SECTION 274, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 2. (a) If medical care is provided to a child who receives foster care, the person who has custody of the child shall inform the provider that the provider is required to file a copy of:

(1) the form provided under IC 31-28-3; and

C o p y

(2) the child's medical treatment record for the medical care;

with the ~~county~~ **local** office in which the child resides.

(b) The provider shall file the form and record with the ~~county~~ **local** office.

SECTION 146. IC 31-28-2-3, AS ADDED BY P.L.145-2006, SECTION 274, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 3. The ~~county~~ **local** office shall maintain the medical treatment records filed under section 2 of this chapter.

SECTION 147. IC 31-28-2-4, AS ADDED BY P.L.145-2006, SECTION 274, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 4. The ~~county~~ **local** office shall provide a copy of the medical treatment records filed under section 2 of this chapter to the person who provides foster care to a child.

SECTION 148. IC 31-28-3-1, AS ADDED BY P.L.145-2006, SECTION 274, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 1. This chapter applies to children who receive foster care that is funded by the department. ~~or a county office.~~

SECTION 149. IC 31-28-3-2, AS ADDED BY P.L.145-2006, SECTION 274, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 2. The department shall establish a medical passport program for children who receive foster care. Under the program, the department shall do the following:

(1) Maintain a record of medical care provided to a foster child.

(2) Facilitate a provider in providing appropriate care to a foster child.

(3) Allow foster parents to authorize routine and emergency medical care to a foster child.

(4) Provide forms for a provider to submit to the ~~county~~ **local** office under IC 31-28-2.

SECTION 150. IC 31-28-3-3, AS ADDED BY P.L.145-2006, SECTION 274, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 3. (a) The ~~county~~ **local** office shall issue the medical passport to a foster child when the child is placed in foster care. The passport must remain with the child until the child is:

(1) returned to the natural parents;

(2) adopted; or

(3) placed in another permanent plan.

(b) When a child is placed under subsection (a)(1), (a)(2), or (a)(3), the medical passport shall be returned to the ~~county~~ **local** office that issued the passport.

C o p y

SECTION 151. IC 31-28-5-1, AS ADDED BY P.L.133-2008, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 1. This chapter applies to:

(1) a child who receives foster care that is funded by the department or a ~~county~~ **local** office; and

(2) a sibling of a child described in subdivision (1).

SECTION 152. IC 31-28-6-1, AS ADDED BY P.L.143-2008, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 1. Subject to IC 31-28-4-1.5, the interstate compact for the placement of children is enacted into law under this chapter and entered into with all other jurisdictions legally joining the compact in a form consistent with the compact terms and provisions as stated in this section in a form substantially as follows:

ARTICLE ~~I~~. **I.** PURPOSE

The purpose of this interstate compact for the placement of children is to do the following:

(1) Provide a process through which children subject to this compact are placed in safe and suitable homes in a timely manner.

(2) Facilitate ongoing supervision of a placement, the delivery of services, and communication between the states.

(3) Provide operating procedures that will ensure that children are placed in safe and suitable homes in a timely manner.

(4) Provide for the adoption and enforcement of administrative rules implementing the provisions of this compact and regulating the covered activities of the member states.

(5) Provide for uniform data collection and information sharing between member states under this compact.

(6) Promote coordination between this compact, the Interstate Compact for Juveniles, the Interstate Compact on Adoption and Medical Assistance, and other compacts that affect the placement of and that provide services to children otherwise subject to this compact.

(7) Provide for a state's continuing legal jurisdiction and responsibility for placement and care of a child that it would have had if the placement were intrastate.

(8) Provide for the promulgation of guidelines, in collaboration with Indian tribes, for interstate cases involving Indian children as is or may be permitted by federal law.

ARTICLE II. DEFINITIONS

The following definitions apply throughout this compact:

(1) "Approved placement" means the public child placing agency in the receiving state has determined that the placement is both

C o p y

safe and suitable for the child.
(2) "Assessment" means an evaluation of a prospective placement by a public child placing agency in the receiving state to determine whether the placement meets the individualized needs of the child, including, **but not limited to,** the child's safety and stability, health and well-being, and mental, emotional, and physical development. An assessment is applicable ~~only~~ to a placement by a public child placing agency.
(3) "Certification" means to attest, declare, or swear to before a judge or notary public.
(4) "Child" means an individual who is less than eighteen (18) years of age.
(5) "Default" means the failure of a member state to perform the obligations or responsibilities imposed upon it by this compact, ~~or by~~ the bylaws, or rules of the interstate commission.
(6) "Home study" means an evaluation of a home environment that is conducted in accordance with the applicable requirements of the state in which the home is located and that documents the preparation and the suitability of the placement resource for placement of a child in accordance with the laws and requirements of the state in which the home is located.
(7) "Indian tribe" means any Indian tribe, band, nation, or other organized group or community of Indians recognized as eligible for services provided to Indians by the Secretary of the Interior because of their status as Indians, including any Alaskan native village as defined in section 3(c) of the Alaska Native Claims Settlement Act, 43 U.S.C. 1602(c).
(8) "Interstate commission for the placement of children" means the commission that is created under Article VIII of this compact and that is generally referred to as "the interstate commission".
(9) "Jurisdiction" means the power and authority of a court to hear and decide matters.
(10) "Legal risk adoption" means a placement made preliminary to an adoption in which the prospective adoptive parents acknowledge in writing that a child can be ordered returned to the sending state or the birth mother's state of residence, if different from the sending state, and a final decree of adoption shall not be entered in any jurisdiction until all required consents are obtained or are dispensed with in accordance with applicable law.
(11) "Legal risk placement" means legal risk adoption.
(12) "Member state" means a state that has enacted this compact.
(13) "Noncustodial parent" means a person who, at the time of the

C o p y

commencement of court proceedings in the sending state, does not have sole legal custody of the child or has joint legal custody of a child, and who is not the subject of allegations or findings of child abuse or neglect.

(14) "Nonmember state" means a state that has not enacted this compact.

(15) "Notice of residential placement" means information regarding a placement into a residential facility that is provided to the receiving state, including, but not limited to, the name of the child, the date and place of birth of the child, the identity and address of the parent or legal guardian, evidence of authority to make the placement, and the name and address of the facility in which the child will be placed. The term also includes information regarding a discharge and any unauthorized absence from the facility.

(16) "Placement" means the act by a public or private child placing agency intended to arrange for the care or custody of a child in another state.

(17) "Private child placing agency" means any private corporation, agency, foundation, institution, or charitable organization, or any private person or attorney, that facilitates, causes, or is involved in the placement of a child from one (1) state to another and that is not an instrumentality of the state or acting under color of state law.

(18) "Provisional placement" means a determination made by the public child placing agency in the receiving state that the receiving state has determined that the proposed placement is safe and suitable, and, to the extent allowable, the receiving state has temporarily waived its standards or requirements otherwise applicable to prospective foster or adoptive parents so as not to delay the placement. Completion of the receiving state requirements regarding training for prospective foster or adoptive parents shall not delay an otherwise safe and suitable placement.

(19) "Public child placing agency" means any government child welfare agency or child protection agency, or a private entity under contract with such an agency, regardless of whether the agency or entity acts on behalf of a state, county, municipality, or other governmental unit, that facilitates, causes, or is involved in the placement of a child from one (1) state to another.

(20) "Receiving state" means the state to which a child is sent, brought, or caused to be sent or brought.

(21) "Relative" means someone who is related to the child as a

C o p y

parent, stepparent, sibling by half or whole blood or by adoption, grandparent, aunt, uncle, or first cousin, or a nonrelative with such significant ties to the child that they may be regarded as relatives as determined by the court in the sending state.

(22) "Residential facility" means a facility providing a level of care that is sufficient to substitute for parental responsibility or foster care and is beyond what is needed for assessment or treatment of an acute condition. For purposes of the compact, residential facilities do not include institutions that are primarily educational in character, hospitals, or other medical facilities.

(23) "Rule" means a written directive, mandate, standard, or principle that is issued by the interstate commission and promulgated under Article XI of this compact, that is of general applicability, and that implements, interprets, or prescribes a policy or provision of the compact. A rule has the force and effect of an administrative rule in a member state, and includes the amendment, repeal, or suspension of an existing rule.

(24) "Sending state" means the state from which the placement of a child is initiated.

(25) "Service member's permanent duty station" means the military installation where an active duty armed services member is currently assigned and is physically located under competent orders that do not specify the duty as temporary.

(26) "Service member's state of legal residence" means the state in which the active duty armed services member is considered a resident for tax and voting purposes.

(27) "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, the Northern Marianas Islands, ~~or~~ **and** any other territory of the United States.

(28) "State court" means a judicial body of a state that is vested by law with responsibility for adjudicating cases involving abuse, neglect, deprivation, delinquency, or status offenses of individuals less than eighteen (18) years of age.

(29) "Supervision" means monitoring provided by the receiving state once a child has been placed in a receiving state under this compact.

ARTICLE III. APPLICABILITY

(a) Except as otherwise provided in subsection (b) **of this article,** this compact applies to the following:

(1) The interstate placement of a child subject to ongoing court jurisdiction in the sending state, due to allegations or findings that

C o p y

the child has been abused, neglected, or deprived as defined by the laws of the sending state. However, the placement of such a child into a residential facility requires only notice of residential placement to the receiving state before placement.

(2) The interstate placement of a child adjudicated delinquent or unmanageable based on the laws of the sending state and subject to ongoing court jurisdiction of the sending state if:

(A) the child is being placed in a residential facility in another member state and is not covered under another compact; or

(B) the child is being placed in another member state and the determination of safety and suitability of the placement and services required is not provided through another compact.

(3) The interstate placement of any child by a public child placing agency or private child placing agency as defined in this compact as a preliminary step to a possible adoption.

(b) The provisions of this compact do not apply to the following:

(1) The interstate placement of a child in a custody proceeding in which a public child placing agency is not a party, if the placement is not intended to effectuate an adoption.

(2) The interstate placement of a child with a nonrelative in a receiving state by a parent with the legal authority to make such a placement. However, the placement is not intended to effectuate an adoption.

(3) The interstate placement of a child by one (1) relative with the lawful authority to make such a placement directly with a relative in a receiving state.

(4) The placement of a child not subject to subsection (a) into a residential facility by the child's parent.

(5) The placement of a child with a noncustodial parent if:

(A) the noncustodial parent proves to the satisfaction of a court in the sending state a substantial relationship with the child;

(B) the court in the sending state makes a written finding that placement with the noncustodial parent is in the best interests of the child; and

(C) the court in the sending state dismisses its jurisdiction ~~over the child's case.~~ **in an interstate placement in which the public child placing agency is a party to the proceeding.**

(6) A child entering the United States from a foreign country for the purpose of adoption or leaving the United States to go to a foreign country for the purpose of adoption in that country.

(7) Cases in which a United States citizen child living overseas

C o p y

with the child's family, at least one (1) member of which is in the United States armed services and is stationed overseas, is removed and placed in a state.

(8) The sending of a child by a public child placing agency or a private child placing agency for a visit as defined by the rules of the interstate commission.

(c) For purposes of determining the applicability of this compact to the placement of a child with a family having a member in the United States armed services, the public child placing agency or private child placing agency may choose the state of the service member's permanent duty station or the service member's declared legal residence.

(d) This compact shall not be construed to prohibit the concurrent application of the provisions of this compact with other applicable interstate compacts, including the interstate compact for juveniles and the interstate compact on adoption and medical assistance. The interstate commission may, in cooperation with other interstate compact commissions having responsibility for the interstate movement, placement, or transfer of children, promulgate like rules to ensure the coordination of services, the timely placement of children, and the reduction of unnecessary or duplicative administrative or procedural requirements.

ARTICLE IV. JURISDICTION

(a) Except as provided in subsection ~~(g)~~ **(h)** and ARTICLE V, subsection (b)(2) and (b)(3), concerning private and independent adoptions, and in interstate placements in which the public child placing agency is not a party to a custody proceeding, the sending state retains jurisdiction over a child with respect to all matters of custody and disposition of the child which it would have had if the child had remained in the sending state. Jurisdiction also includes the power to order the return of the child to the sending state.

(b) When an issue of child protection or custody is brought before a court in the receiving state, the court shall confer with the court of the sending state to determine the most appropriate forum for adjudication.

(c) In cases that are before a court and are subject to this compact, the taking of testimony for hearings before any judicial officer may occur in person, by telephone, by audio-video conference, or by other means approved by the Interstate Commission. Judicial officers may communicate with other judicial officers and persons involved in the interstate process as permitted by the canons of judicial conduct and any rules adopted by the Interstate Commission.

~~(c)~~ **(d)** In accordance with its own laws, the court in the sending

C o p y

state shall have authority to terminate its jurisdiction if:

(1) the parent with whom the child is reunified in the receiving state is the subject of allegations or findings of abuse or neglect, but only with the concurrence of the public child placing agency in the receiving state;

(2) the child is adopted;

(3) the child reaches the age of majority under the laws of the sending state;

(4) the child achieves legal independence under the laws of the sending state;

(5) a guardianship is created by a court in the receiving state with the concurrence of the court in the sending state;

(6) an Indian tribe has petitioned for and received jurisdiction from the court in the sending state; or

(7) the public child placing agency of the sending state requests termination and has obtained the concurrence of the public child placing agency in the receiving state.

~~(d)~~ **(e)** When a sending state court terminates its jurisdiction, the receiving state child placing agency shall be notified.

~~(e)~~ **(f)** Nothing in this article shall defeat a claim of jurisdiction by a receiving state court sufficient to deal with an act of truancy, delinquency, crime, or behavior that involves a child as defined by the laws of the receiving state, that is committed by the child in the receiving state, and that would be a violation of the laws of the receiving state.

~~(f)~~ **(g)** This article does not limit the receiving state's ability to take emergency jurisdiction for the protection of the child.

~~(g)~~ **(h)** The substantive laws of the state in which an adoption will be finalized shall solely govern all issues relating to the adoption of the child, and the court in which the adoption proceeding is filed has subject matter jurisdiction regarding all substantive issues relating to the adoption, except:

(1) when the child is a ward of another court that established jurisdiction over the child prior to the placement;

(2) when the child is in the legal custody of a public agency in the sending state; or

(3) when a court in the sending state has otherwise appropriately assumed jurisdiction over the child, prior to the submission of the request for approval of placement.

~~(h)~~ **(i)** A final decree of adoption shall not be entered in any jurisdiction until the placement is authorized as an approved placement by the public child placing agency in the receiving state.

C o p y

ARTICLE V. PLACEMENT EVALUATION

(a) Before sending, bringing, or causing a child to be sent or brought into a receiving state, the public child placing agency shall provide a written request for assessment to the receiving state.

(b) For placements by a private child placing agency, a child may be sent or brought, or caused to be sent or brought, into a receiving state, upon receipt and immediate review of the required content in a request for approval of a placement by both the sending state's and the receiving state's public child placing agency. The required content to accompany a request for ~~provisional~~ approval shall include all of the following:

(1) A request for approval identifying the child, the birth parent(s), the prospective adoptive parent(s), and the supervising agency, signed by the person requesting approval.

(2) The appropriate consents or relinquishments signed by the birth parents in accordance with the laws of the sending state, or where permitted, the laws of the state where the adoption will be finalized.

(3) Certification by a licensed attorney or authorized agent of a private adoption agency that the consent or relinquishment is in compliance with the applicable laws of the sending state, or where permitted the laws of the state where finalization of the adoption will occur.

(4) A home study.

(5) An acknowledgment of legal risk signed by the prospective adoptive parents.

(c) The sending state and the receiving state may request additional information or documents before finalization of an approved placement, but they may not delay travel by the prospective adoptive parents with the child if the required content for approval has been submitted and has been received and reviewed by the public child placing agency in both the sending state and the receiving state.

(d) Approval from the public child placing agency in the receiving state for a provisional or approved placement is required as provided for in the rules of the interstate commission.

(e) The procedures for making and the request for an assessment shall contain all information and be in such form as provided for in the rules of the interstate commission.

(f) Upon receipt of a request from the public child ~~welfare~~ **placing** agency of the sending state, the receiving state shall initiate an assessment of the proposed placement to determine its safety and suitability. If the proposed placement is a placement with a relative, the

C o p y

public child placing agency of the sending state may request a determination ~~of whether the placement qualifies as~~ **for** a provisional placement.

~~(g) Upon receipt of a request from the public child placing agency of the sending state, the receiving state shall initiate an assessment of the proposed placement to determine its safety and suitability. If the proposed placement is a placement with a relative, the public child placing agency of the sending state may request a determination for a provisional placement.~~

~~(h)~~ **(g)** The public child placing agency in the receiving state may request from the public child placing agency or the private child placing agency in the sending state, and shall be entitled to receive, supporting or additional information necessary to complete the assessment **or approve the placement.**

~~(i)~~ **(h)** The public child placing agency in the receiving state shall approve a provisional placement and complete or arrange for the completion of the assessment within the timeframes established by the rules of the interstate commission.

~~(j)~~ **(i)** For a placement by a private child placing agency, the sending state shall not impose any additional requirements to complete the home study that are not required by the receiving state, unless the adoption is finalized in the sending state.

~~(k)~~ **(j)** The interstate commission may develop uniform standards for the assessment of the safety and suitability of interstate placements.

ARTICLE VI. PLACEMENT AUTHORITY

(a) Except as otherwise provided in this compact, no child subject to this compact shall be placed into a receiving state until approval for such placement is obtained.

(b) If the public child placing agency in the receiving state does not approve the proposed placement, the child shall not be placed. The receiving state shall provide written documentation of any such determination in accordance with the rules promulgated by the interstate commission. Such a determination is not subject to judicial review in the sending state.

(c) If the proposed placement is not approved, any interested party shall have standing to seek an administrative review of the receiving state's determination.

(d) The administrative review and any further judicial review associated with the determination shall be conducted in the receiving state under its applicable administrative procedures.

(e) If a determination not to approve the placement of the child in the receiving state is overturned upon review, the placement shall be

C o p y

considered approved. However, all administrative or judicial remedies must be exhausted or the time for such remedies must have passed.

ARTICLE VII. PLACING AGENCY RESPONSIBILITY

(a) For the interstate placement of a child made by a public child placing agency or state court:

(1) the public child placing agency in the sending state shall have financial responsibility for:

(A) the ongoing support and maintenance for the child during the period of the placement, unless otherwise provided for in the receiving state; and

(B) as determined by the public child placing agency in the sending state, services for the child beyond the public services for which the child is eligible in the receiving state;

(2) the receiving state shall have financial responsibility only for:

(A) any assessment conducted by the receiving state; and

(B) supervision conducted by the receiving state at the level necessary to support the placement as agreed upon by the public child placing agencies of the receiving and sending states; and

(3) nothing in this ~~compact~~ **provision** prohibits public child placing agencies in the sending state from entering into agreements with licensed agencies or persons in the receiving state to conduct assessments and provide supervision.

(b) For the placement of a child by a private child placing agency preliminary to a possible adoption, the private child placing agency shall be:

(1) legally responsible for the child during the period of placement as provided for in the law of the sending state until the finalization of the adoption; and

(2) financially responsible for the child absent a contractual agreement to the contrary.

(c) The public child placing agency in the receiving state shall provide timely assessments, as provided for in the rules of the interstate commission.

(d) The public child placing agency in the receiving state shall provide, or arrange for the provision of, supervision and services for the child, including timely reports, during the period of the placement.

(e) This compact does not limit the authority of the public child placing agency in the receiving state to contract with a licensed agency or person in the receiving state for an assessment or the provision of supervision or services for the child or otherwise authorize the provision of supervision or services by a licensed agency during the

C o p y

period of placement.

(f) Each member state shall provide for coordination among its branches of government concerning the state's participation in, and compliance with, the compact and interstate commission activities, through the creation of an advisory council or use of an existing body or board.

(g) Each member state shall establish a central state compact office, which shall be responsible for state compliance with the compact and the rules of the interstate commission.

(h) The public child placing agency in the sending state shall oversee compliance with the provisions of the Indian Child Welfare Act (25 U.S.C. 1901 et seq.) for placements subject to the provisions of this compact, before placement.

(i) With the consent of the interstate commission, states may enter into limited agreements that facilitate the timely assessment and provision of services and supervision of placements under this compact.

ARTICLE VIII. INTERSTATE COMMISSION FOR THE PLACEMENT OF CHILDREN

The member states hereby establish, by way of this compact, a commission known as the "interstate commission for the placement of children". The activities of the interstate commission are the formation of public policy and are a discretionary state function. The interstate commission:

(1) is a joint commission of the member states and shall have the responsibilities, powers, and duties set forth herein, and such additional powers as may be conferred upon it by subsequent concurrent action of the respective legislatures of the member states;

(2) consists of one (1) commissioner from each member state, who shall be appointed by the executive head of the state human services administration with ultimate responsibility for the child welfare program, and who shall have the legal authority to vote on policy related matters governed by this compact binding the state;

(3) operates under:

(A) a requirement that each member state represented at a meeting of the interstate commission is entitled to one (1) vote;

(B) a requirement that a majority of the member states shall constitute a quorum for the transaction of business, unless a larger quorum is required by the bylaws of the interstate commission;

C o p y

(C) a requirement that a representative shall not delegate a vote to another member state;

(D) a requirement that a representative may delegate voting authority to another person from the same member state for a specified meeting; and

(E) a requirement that the interstate commission shall include, in addition to the commissioners of each member state, persons who are members of interested organizations as defined in the bylaws or rules of the interstate commission and who shall be ex officio and shall not be entitled to vote on any matter before the interstate commission; and

(4) shall establish an executive committee, which shall have the authority to administer the day to day operations and administration of the interstate commission but does not have the power to engage in rulemaking.

ARTICLE IX. POWERS AND DUTIES OF THE INTERSTATE COMMISSION

The interstate commission has powers to do the following:

(1) Promulgate rules and take all necessary actions to effect the goals, purposes, and obligations as enumerated in this compact.

(2) Provide for dispute resolution among member states.

(3) Issue, upon request of a member state, advisory opinions concerning the meaning or interpretation of the interstate compact or the interstate commission's bylaws, rules, or actions.

(4) Enforce compliance with this compact or the bylaws or rules of the interstate commission under Article XII.

(5) Collect standardized data concerning the interstate placement of children subject to this compact as directed through its rules, which shall specify the data to be collected, the means of collection and data exchange, and reporting requirements.

(6) Establish and maintain offices as may be necessary for the transacting of its business.

(7) Purchase and maintain insurance and bonds.

(8) Hire or contract for services of personnel or consultants as necessary to carry out its functions under the compact and establish personnel qualification policies and rates of compensation.

(9) Establish and appoint committees and officers, including, but not limited to, an executive committee as required by Article X.

(10) Accept any and all donations and grants of money, equipment, supplies, materials, and services, and **to** receive, ~~use,~~ **utilize,** and dispose of the donations and grants.

C o p y

(11) Lease, purchase, accept contributions or donations of, or otherwise own, hold, improve, or use any property, whether real, personal, or mixed.

(12) Sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property, whether real, personal, or mixed.

(13) Establish a budget and make expenditures.

(14) Adopt a seal and bylaws governing the management and operation of the interstate commission.

(15) Report annually to the legislatures, the governors, the judiciary, and the state advisory councils of the member states concerning the activities of the interstate commission during the preceding year. Such reports shall also include any recommendations that may have been adopted by the interstate commission.

(16) Coordinate and provide education, training, and public awareness regarding the interstate movement of children for officials involved in such activity.

(17) Maintain books and records in accordance with the bylaws of the interstate commission.

(18) Perform such functions as may be necessary or appropriate to achieve the purposes of this compact.

ARTICLE X. ORGANIZATION AND OPERATION OF THE INTERSTATE COMMISSION

(a) Bylaws.

(1) Within twelve (12) months after the first interstate commission meeting, the interstate commission shall adopt bylaws to govern its conduct as may be necessary or appropriate to carry out the purposes of this compact.

(2) The interstate commission's bylaws and rules shall establish conditions and procedures under which the interstate commission shall make its information and official records available to the public for inspection or copying. The interstate commission may exempt from disclosure information or official records to the extent they would adversely affect personal privacy rights or proprietary interests.

(b) Meetings.

(1) The interstate commission shall meet at least once each calendar year. The chairperson may call additional meetings and, upon the request of a simple majority of the member states, shall call additional meetings.

(2) Public notice shall be given by the interstate commission of all

C o p y

meetings, and all meetings shall be open to the public, except as set forth in the rules or as otherwise provided in the compact. The interstate commission and its committees may close a meeting, or part of a meeting, where it determines by two-thirds (2/3) vote that an open meeting would be likely to:

(A) relate solely to the interstate commission's internal personnel practices and procedures;

(B) disclose matters specifically exempted from disclosure by federal law;

(C) disclose financial or commercial information that is privileged, proprietary, or confidential in nature;

(D) involve accusing a person of a crime, or formally censuring a person;

(E) disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy or physically endanger one (1) or more persons;

(F) disclose investigative records compiled for law enforcement purposes; or

(G) specifically relate to the interstate commission's participation in a civil action or other legal proceeding.

(3) For a meeting, or part of a meeting, closed under this provision, the interstate commission's legal counsel or designee shall certify that the meeting may be closed and shall reference each relevant exemption provision. The interstate commission shall keep minutes that shall fully and clearly describe all matters discussed in the meeting and shall provide a full and accurate summary of actions taken and the reasons for the actions, including a description of the views expressed and the record of a roll call vote. All documents considered in connection with an action shall be identified in the minutes. All minutes and documents of a closed meeting shall remain under seal, subject to release by a majority vote of the interstate commission or by court order.

(4) The bylaws may provide for meetings of the interstate commission to be conducted by telecommunication or other electronic communication.

(c) Officers and staff.

(1) The interstate commission may, through its executive committee, appoint or retain a staff director for such period, upon such terms and conditions, and for such compensation as the interstate commission may ~~consider~~ **deem** appropriate. The staff director shall serve as secretary to the interstate commission, but

C o p y

shall not have a vote. The staff director may hire and supervise such other staff as may be authorized by the interstate commission.

(2) The interstate commission shall elect, from among its members, a chairperson and a vice chairperson of the executive committee and other necessary officers, each of whom shall have such authority and duties as may be specified in the bylaws.

(d) Qualified immunity, defense, and indemnification.

(1) The interstate commission's staff director and the employees of the commission are immune from suit and liability, either personally or in official capacity, for a claim for damage to or loss of property or personal injury or other civil liability caused or arising out of or relating to any actual or alleged act, error, or omission that occurred, or that the staff director or employee had a reasonable basis for believing occurred, within the scope of commission employment, duties, or responsibilities. The staff director or an employee is not protected from suit or liability for damage, loss, injury, or liability caused by a criminal act or intentional or willful and wanton misconduct.

(2) The liability of the interstate commission's staff director and employees or interstate commission representatives, acting within the scope of such person's employment or duties, for acts, errors, or omissions occurring within such person's state, may not exceed the limits of liability set forth under the Constitution and laws of that state for state officials, employees, and agents. The interstate commission is considered to be an instrumentality of the states for the purposes of any such action. Nothing in this subsection shall be construed to protect such person from suit or liability for damage, loss, injury, or liability caused by a criminal act or the intentional or willful and wanton misconduct of such person.

(3) The interstate commission shall defend the staff director and its employees and, subject to the approval of the attorney general or other appropriate legal counsel of the member state, shall defend the commissioner of a member state in a civil action seeking to impose liability arising out of an actual or alleged act, error, or omission that occurred within the scope of interstate commission employment, duties, or responsibilities, or that the defendant had a reasonable basis for believing occurred within the scope of interstate commission employment, duties, or responsibilities, if the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of such person.

C o p y

(4) To the extent not covered by the state involved, member state, or the interstate commission, the representatives or employees of the interstate commission shall be held harmless in the amount of a settlement or judgment, including attorney's fees and costs, obtained against such persons arising out of an actual or alleged act, error, or omission that occurred within the scope of interstate commission employment, duties, or responsibilities, or that such persons had a reasonable basis for believing occurred within the scope of interstate commission employment, duties, or responsibilities, if the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of such persons.

ARTICLE XI. RULEMAKING FUNCTIONS OF THE INTERSTATE COMMISSION

(a) The interstate commission shall promulgate and publish rules in order **to** effectively and efficiently ~~to~~ achieve the purposes of the compact.

(b) Rulemaking shall occur under the criteria set forth in this article and the bylaws and rules adopted pursuant thereto. Such rulemaking shall substantially conform to the principles of the "Model State Administrative Procedures Act," 1981 Act, Uniform Laws Annotated, Vol. 15, p. 1 (2000), or such other administrative procedure acts as the interstate commission ~~considers~~ **deems** appropriate and consistent with due process requirements under the United States Constitution as now or hereafter interpreted by the United States Supreme Court. All rules and amendments shall become binding as of the date specified, as published with the final version of the rule as approved by the interstate commission.

(c) When promulgating a rule, the interstate commission shall, at a minimum:

(1) publish the proposed rule's entire text, stating the reasons for that proposed rule;

(2) allow and invite any and all persons to submit written data, facts, opinions, and arguments, which information shall be added to the record and be made publicly available; and

(3) promulgate a final rule and its effective date, if appropriate, based on input from state or local officials or interested parties.

(d) Rules promulgated by the interstate commission shall have the force and effect of administrative rules and shall be binding in the compacting states to the extent and in the manner provided for in this compact.

(e) Not later than sixty (60) days after a rule is promulgated, an

C o p y

interested person may file a petition in the U.S. District Court for the District of Columbia or in the federal district court of the district where the interstate commission's principal office is located for judicial review of such rule. If the court finds that the interstate commission's action is not supported by substantial evidence in the rulemaking record, the court shall hold the rule unlawful and set it aside.

(f) A majority of the legislatures of the member states may reject a rule by enacting, in the same manner used to adopt the compact, a statute or resolution that provides that the rule shall have no further force and effect in any member state.

(g) The existing rules governing the operation of the interstate compact on the placement of children that are superseded by this act shall be null and void not less than twelve (12), but not more than twenty-four (24), months after the first meeting of the interstate commission created hereunder, as determined by the members during the first meeting.

(h) Within the first twelve (12) months of operation, the interstate commission shall promulgate rules addressing the following:

(1) Transition rules.
(2) Forms and procedures.
(3) Time lines.
(4) Data collection and reporting.
(5) Rulemaking.
(6) Visitation.
(7) Progress reports/supervision.
(8) Sharing of information/confidentiality.
(9) Financing of the interstate commission.
(10) Mediation, arbitration, and dispute resolution.
(11) Education, training, and technical assistance.
(12) Enforcement.
(13) Coordination with other interstate compacts.

(i) Upon determination by a majority of the members of the interstate commission that an emergency exists: ~~the interstate commission may promulgate an emergency rule, subject to the following:~~

(1) the interstate commission may promulgate an emergency rule only if the emergency rule is required to:

(A) protect the children covered by this compact from an imminent threat to their health, safety, and well-being;
(B) prevent loss of federal or state funds; or
(C) meet a deadline for the promulgation of an administrative rule required by federal law;

C o p y

(2) an emergency rule shall become effective immediately upon adoption, provided that the usual rulemaking procedures provided hereunder shall be retroactively applied to the rule as soon as reasonably possible, but not later than ninety (90) days after the effective date of the emergency rule; **and**

(3) an emergency rule shall be promulgated as provided for in the rules of the interstate commission.

ARTICLE XII. OVERSIGHT, DISPUTE RESOLUTION, ENFORCEMENT

(a) Oversight.

(1) The interstate commission shall oversee the administration and operation of the compact.

(2) The executive, legislative, and judicial branches of state government in each member state shall enforce this compact and the rules of the interstate commission and shall take all actions necessary and appropriate to effectuate the compact's purposes and intent. The compact and its rules shall be binding in the compacting states to the extent and in the manner provided for in this compact.

(3) All courts shall take judicial notice of the compact and the rules in any judicial or administrative proceeding in a member state pertaining to the subject matter of this compact.

(4) The interstate commission shall be entitled to receive service of process in any action in which the validity of a compact provision or rule is the issue for which a judicial determination has been sought and shall have standing to intervene in any proceedings. Failure to provide service of process to the interstate commission shall render any judgment, order, or other determination, however so captioned or classified, void as to the interstate commission, this compact, or the bylaws or rules of the interstate commission.

(b) Dispute resolution.

(1) The interstate commission shall attempt, upon the request of a member state, to resolve disputes that are subject to the compact and that may arise among member states and between member and nonmember states.

(2) The interstate commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes among compacting states. The costs of such mediation or dispute resolution shall be the responsibility of the parties to the dispute.

(c) Enforcement.

(1) If the interstate commission determines that a member state

C o p y

has defaulted in the performance of its obligations or responsibilities under this compact, its bylaws, or rules, the interstate commission may:

(A) provide remedial training and specific technical assistance;

(B) provide written notice to the defaulting state and other member states of the nature of the default and the means of curing the default. The interstate commission shall specify the conditions by which the defaulting state must cure its default;

(C) by majority vote of the members, initiate against a defaulting member state legal action in the United States District Court for the District of Columbia or, at the discretion of the interstate commission, in the federal district where the interstate commission has its principal office, to enforce compliance with the provisions of the compact or with the interstate commission's bylaws or rules. The relief sought may include both injunctive relief and damages. If judicial enforcement is necessary, the prevailing party shall be awarded all costs of such litigation, including reasonable attorney's fees; or

(D) avail itself of any other remedies available under state law or the rules relating to the regulation of official or professional conduct.

ARTICLE XIII. FINANCING OF THE COMMISSION

(a) The interstate commission shall pay or provide for the payment of the reasonable expenses of its establishment, organization, and ongoing activities.

(b) The interstate commission may levy on and collect an annual assessment from each member state to cover the cost of the operations and activities of the interstate commission and its staff, which must be in a total amount sufficient to cover the interstate commission's annual budget as approved by its members each year. The aggregate annual assessment amount shall be allocated based upon a formula to be determined by the interstate commission, which shall promulgate a rule binding upon all member states.

(c) The interstate commission shall not incur obligations of any kind before securing the funds adequate to meet the obligations. The interstate commission shall not pledge the credit of any of the member states, except by and with the authority of the member state.

(d) The interstate commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the interstate commission shall be subject to the audit and accounting

C o p y

procedures established under its bylaws. However, all receipts and disbursements of funds handled by the interstate commission shall be audited yearly by a certified or licensed public accountant, and the report of the audit shall be included in and become part of the annual report of the interstate commission.

ARTICLE XIV. MEMBER STATES, **EFFECTIVE DATE,** AND AMENDMENT

(a) Any state is eligible to become a member state.

(b) The compact shall become effective and binding upon legislative enactment of the compact into law by thirty-five (35) states. The effective date shall be the later of July 1, 2007, or upon enactment of the compact into law by the thirty-fifth state. Thereafter, the compact shall become effective and binding as to any other member state upon enactment of the compact into law by that state. The executive heads of the state human services administration with ultimate responsibility for the child welfare program of nonmember states or their designees shall be invited to participate in the activities of the interstate commission on a nonvoting basis before adoption of the compact by all states.

(c) The interstate commission may propose amendments to the compact for enactment by the member states. No amendment shall become effective and binding on the member states unless and until it is enacted into law by unanimous consent of the member states.

ARTICLE XV. WITHDRAWAL AND DISSOLUTION

(a) Withdrawal.

(1) Once effective, this compact continues in force and remains binding upon each and every member state. However, a member state may withdraw from the compact by specifically repealing the statute that enacted the compact into law.

(2) Withdrawal from this compact shall be by the enactment of a statute repealing the statute establishing the compact. The effective date of withdrawal is the effective date of the repeal of the statute.

(3) The withdrawing state shall immediately notify the president of the interstate commission in writing upon the introduction of legislation repealing this compact in the withdrawing state. The interstate commission shall then notify the other member states of the withdrawing state's intent to withdraw.

(4) The withdrawing state is responsible for all assessments, obligations, and liabilities incurred through the effective date of withdrawal.

(5) Reinstatement following withdrawal of a member state shall

C o p y

occur upon the withdrawing state reenacting the compact or upon such later date as determined by the members of the interstate commission.

(b) Dissolution of compact.

(1) This compact shall dissolve effective upon the date of the withdrawal or default of the member state that reduces the membership in the compact to one (1) member state.

(2) Upon the dissolution of this compact, the compact becomes void and is of no further force or effect, and the business and affairs of the interstate commission shall be concluded and surplus funds shall be distributed in accordance with the bylaws.

ARTICLE XVI. SEVERABILITY AND CONSTRUCTION

(a) The provisions of this compact shall be severable, and if any phrase, clause, sentence, or provision is ~~considered~~ **deemed** unenforceable, the remaining provisions of the compact shall be enforceable.

(b) The provisions of this compact shall be liberally construed to effectuate its purposes.

(c) Nothing in this compact shall be construed to prohibit the concurrent applicability of other interstate compacts to which the states are members.

ARTICLE XVII. BINDING EFFECT OF COMPACT AND OTHER LAWS

(a) ~~Other laws.~~

~~(1)~~ This compact does not prevent the enforcement of any other law of a member state that is not inconsistent with this compact.

~~(2) All member states' laws conflicting with this compact or its rules are superseded to the extent of the conflict.~~

(b) Binding effect of this compact.

(1) All lawful actions of the interstate commission, including all rules and bylaws promulgated by the interstate commission, are binding upon the member states.

(2) All agreements between the interstate commission and the member states are binding in accordance with their terms.

(3) If any provision of this compact exceeds the constitutional limits imposed on the legislature of any member state, the provision is ineffective to the extent of the conflict with the constitutional provision in question in that member state.

ARTICLE XVIII. INDIAN TRIBES

Notwithstanding any other provision in this compact, the interstate commission may promulgate guidelines to permit Indian tribes to ~~use~~ **utilize** the compact to achieve any or all of the purposes of the compact

C o p y

as specified in Article I. The interstate commission shall make reasonable efforts to consult with Indian tribes in promulgating guidelines to reflect the diverse circumstances of the various Indian tribes.

SECTION 153. IC 31-33-18-1, AS AMENDED BY P.L.182-2009(ss), SECTION 378, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 1. (a) Except as provided in section 1.5 of this chapter, the following are confidential:

(1) Reports made under this article (or IC 31-6-11 before its repeal).

(2) Any other information obtained, reports written, or photographs taken concerning the reports in the possession of:

(A) the division of family resources;

(B) the ~~county~~ **local** office;

(C) the department; or

(D) the department of child services ombudsman established by IC 4-13-19-3.

(b) Except as provided in section 1.5 of this chapter, all records held by:

(1) the division of family resources;

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

(3) the department;

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

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

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

regarding the death of a child determined to be a result of abuse, abandonment, or neglect are confidential and may not be disclosed.

SECTION 154. IC 31-33-18-1.5, AS AMENDED BY P.L.162-2011, SECTION 46, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 1.5. (a) This section applies to records held by:

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

(2) the department;

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

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

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

regarding a child whose death or near fatality may have been the result

C o p y

of abuse, abandonment, or neglect.

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

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

(2) a prosecuting attorney files:

(A) an indictment or information; or

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

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

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

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

(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;

C o p y

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

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

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

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

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

(E) telecommunication identifying information; or

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

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

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

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

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

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

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

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

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

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

C o p y

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

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

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

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

(4) Whether the department had any contact with the child or the perpetrator before the fatality or near fatality, and, if the department had contact, the following:

(A) The frequency of the contact with the child or the perpetrator before the fatality or near fatality and the date on which the last contact occurred before the fatality or near fatality.

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

(i) whether the child's case was closed by the department before the fatality or near fatality; and

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

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

SECTION 155. IC 31-33-18-3, AS AMENDED BY P.L.234-2005, SECTION 156, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 3. (a) Section 2 of this chapter does not prevent the ~~county~~ **local** office ~~of family and children~~ or the department from disclosing to a qualified individual engaged in a good faith research project either:

(1) information of a general nature, including the incidents of reported child abuse or neglect or other statistical or social data used in connection with studies, reports, or surveys, and information related to their function and activities; or

(2) information relating to case histories of child abuse or neglect if:

(A) the information disclosed does not identify or reasonably tend to identify the persons involved; and

(B) the information is not a subject of pending litigation.

(b) To implement this section, the department shall adopt under IC 4-22-2 rules to govern the dissemination of information to

C o p y

qualifying researchers.

SECTION 156. IC 31-33-26-3, AS AMENDED BY P.L.131-2009, SECTION 56, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 3. In addition to the equipment needed to establish, operate, and maintain the index, the index must include the following components:

~~(1) One (1) computer to be purchased for every two (2) family case managers.~~

~~(2)~~ **(1)** Automated risk assessment in which a family case manager or supervisor is able to review a substantiated child abuse or neglect case to determine prior case history during the intake, assessment, and case management processes.

~~(3)~~ **(2)** The capability to allow supervisors to monitor child abuse and neglect cases and reports relating to the cases.

~~(4)~~ **(3)** The automated production of standard reports to enable the automated compilation of information gathered on forms used by family case managers to report the information and results of child abuse and neglect cases. The index must also provide for the automation of other data for planning and evaluation as determined by the department.

~~(5)~~ **(4)** The capability of same day notification and transfer of statistical information to the department regarding new and closed child abuse and neglect cases.

~~(6)~~ **(5)** The enabling of child welfare supervisors to review a child abuse or neglect determination at any point after the assessment is initially classified as substantiated abuse or neglect, to confirm the status of the case, and to allow for the consolidated management of cases.

~~(7)~~ **(6)** The capability for adjusting the index's programming at a later date if additional reporting requirements occur.

~~(8)~~ **(7)** A word processing capability to allow case notes to be recorded with each substantiated child abuse and neglect case.

SECTION 157. IC 31-34-1-16, AS AMENDED BY P.L.145-2006, SECTION 289, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 16. (a) The department may not:

(1) initiate a court proceeding to:
  (A) terminate the parental rights concerning; or
  (B) transfer legal custody of; or

(2) require a parent, guardian, or custodian to consent to:
  (A) the termination of parental rights; or
  (B) transfer of legal custody of;

a child with an emotional, a behavioral, or a mental disorder or a

C o p y

developmental or physical disability who is voluntarily placed out of the home for the purpose of obtaining special treatment or care, solely because the parent, guardian, or custodian is unable to provide the treatment or care. Relinquishment of custody of a child described in this subsection may not be made a condition for receipt of services or care delivered or funded by the department or the ~~county~~ **local** office. ~~of family and children.~~

(b) When a child described in subsection (a) is voluntarily placed out of the home to receive special treatment or care, the department and the parent, guardian, or custodian of the child may execute a voluntary placement agreement that includes the following:

(1) A statement that, by entering into a voluntary placement agreement, the parent, guardian, or custodian of the child is not transferring legal custody of the child to the department.

(2) A statement specifying the legal status of the child.

(3) A statement specifying the rights and obligations of the parent, guardian, or custodian.

SECTION 158. IC 31-34-2.5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 1. (a) An emergency medical services provider shall, without a court order, take custody of a child who is, or who appears to be, not more than ~~forty-five (45)~~ **thirty (30)** days of age if:

(1) the child is voluntarily left with the provider by the child's parent; and

(2) the parent does not express an intent to return for the child.

(b) An emergency medical services provider who takes custody of a child under this section shall perform any act necessary to protect the child's physical health or safety.

(c) Any person who in good faith voluntarily leaves a child with an emergency medical services provider is not obligated to disclose the parent's name or ~~their~~ **the person's** name.

SECTION 159. IC 31-34-4-2, AS AMENDED BY P.L.162-2011, SECTION 49, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: 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;

C o p y

before considering any other out-of-home placement.

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

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

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

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

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

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

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

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

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

(B) been convicted of:

(i) battery (IC 35-42-2-1) as a felony;

(ii) criminal confinement (IC 35-42-3-3) as a felony;

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

(iv) arson (IC 35-43-1-1) as a felony;

(v) a felony involving a weapon under IC 35-47 or IC 35-47.5;

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

(vii) a felony under IC 9-30-5; or

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

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

C o p y

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

(2) the 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 the placement is in the best interest of the child.

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

(g) In considering the placement under subsection (f), the court or the department shall consider the following:

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

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

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

SECTION 160. IC 31-34-12-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 5. Evidence that a prior or subsequent act or omission by a parent, guardian, or custodian injured **or neglected** a child is admissible in proceedings alleging that a child is a child in need of services to show the following:

(1) Intent, guilty knowledge, the absence of mistake or accident, identification, the existence of a common scheme or plan, or other similar purposes.

(2) A likelihood that the act or omission of the parent, guardian, or custodian is responsible for the child's current injury or condition.

SECTION 161. IC 31-34-15-4, AS AMENDED BY P.L.131-2009, SECTION 64, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 4. A child's case plan must be set out in a form prescribed by the department that meets the specifications set by 45 CFR 1356.21. The case plan must include a description and discussion of the following:

(1) A permanent plan for the child and an estimated date for achieving the goal of the plan.

(2) The appropriate placement for the child based on the child's special needs and best interests.

(3) The least restrictive family-like setting that is close to the home of the child's parent, custodian, or guardian if out-of-home placement is recommended. If an out-of-home placement is

C o p y

appropriate, the ~~county~~ **local** office or department shall consider whether a child in need of services should be placed with the child's suitable and willing blood or adoptive relative caretaker, including a grandparent, an aunt, an uncle, or an adult sibling, before considering other out-of-home placements for the child.

(4) Family services recommended for the child, parent, guardian, or custodian.

(5) Efforts already made to provide family services to the child, parent, guardian, or custodian.

(6) Efforts that will be made to provide family services that are ordered by the court.

(7) A plan for ensuring the educational stability of the child while in foster care that includes assurances that the:

(A) placement of the child in foster care considers the appropriateness of the current educational setting of the child and the proximity to the school where the child is presently enrolled; and

(B) department has coordinated with local educational agencies to ensure:

(i) the child remains in the school where the child is enrolled at the time of removal; or

(ii) immediate, appropriate enrollment of the child in a different school, including arrangements for the transfer of the child's school records to the new school, if remaining in the same school is not in the best interests of the child.

SECTION 162. IC 31-34-15-6, AS AMENDED BY P.L.145-2006, SECTION 305, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 6. (a) This section applies whenever a child who was born out of wedlock is:

(1) or is alleged to be a child in need of services; and

(2) under the supervision of the department or a ~~county~~ **local** office as a result of a court ordered out-of-home placement.

(b) The department or the ~~county~~ **local** office shall refer a child's case to the local prosecuting attorney's office for the filing of a paternity action if the:

(1) identity of the alleged father is known; and

(2) department or the ~~county~~ **local** office reasonably believes that establishing the paternity of the child would be beneficial to the child.

The local prosecuting attorney's office shall file a paternity action regarding each case that is referred under this subsection. The department shall sign the paternity petition as the child's next friend.

C o p y

SECTION 163. IC 31-34-19-4, AS AMENDED BY P.L.145-2006, SECTION 309, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 4. If:

(1) a child is referred to a probate court;

(2) the juvenile court initiates a commitment proceeding; or

(3) the court transfers a commitment proceeding under IC 12-26-1-4;

the juvenile court shall discharge the child or continue the court's proceedings under the juvenile law. However, if the child is under the custody or supervision of a ~~county~~ **local** office or the department, the juvenile court may not release the ~~county~~ **local** office from the obligations of the ~~county~~ **local** office or the department to the child pending the outcome of the proceeding under IC 12-26.

SECTION 164. IC 31-34-19-5, AS AMENDED BY P.L.145-2006, SECTION 310, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 5. If the court authorizes a child who is under the custody or supervision of a ~~county~~ **local** office or the department to be placed in a state institution (as defined in IC 12-7-2-184) for voluntary treatment in accordance with IC 12-26-3, the court may not release the department from obligations of the ~~county~~ **local** office or the department to the child until a parent, guardian, or other responsible person approved by the court assumes the obligations.

SECTION 165. IC 31-34-20-1.5, AS AMENDED BY P.L.162-2011, SECTION 50, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 1.5. (a) Except as provided in subsection (d), the juvenile court may not enter a dispositional decree approving or ordering placement of a child in another home under section 1(a)(3) of this chapter or awarding wardship to the department that will place the child in another home under section 1(a)(4) of this chapter if a person who is currently residing in the home in which the child would be placed under section 1(a)(3) or 1(a)(4) of this chapter has committed an act resulting in a substantiated report of child abuse or neglect, has a juvenile adjudication for an act that would be a felony listed in IC 31-27-4-13 if committed by an adult, or has a conviction for a felony listed in IC 31-27-4-13.

(b) The department or caseworker who prepared the predispositional report shall conduct a criminal history check (as defined in IC 31-9-2-22.5) to determine if a person described in subsection (a) has committed an act resulting in a substantiated report of child abuse or neglect, has a juvenile adjudication for an act that would be a felony listed in IC 31-27-4-13 if committed by an adult, or has a conviction for

C o p y

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

(B) been convicted of:

(i) battery (IC 35-42-2-1) as a felony;

(ii) criminal confinement (IC 35-42-3-3) as a felony;

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

(iv) arson (IC 35-43-1-1) as a felony;

(v) a felony involving a weapon under IC 35-47 or IC 35-47.5;

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

(vii) a felony under IC 9-30-5; or

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

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

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

(2) the person's commission of the offense, delinquent act, or act of abuse or neglect described in subdivision (1) is not relevant to

C o p y

the person's present ability to care for a child, and placing a child in another home or awarding wardship to the department is in the best interest of the child.

However, a court may not enter a dispositional decree that approves placement of a child in another home or awards wardship to the department if the person has been convicted of a felony listed in IC 31-27-4-13(a) that is not specifically excluded under subdivision (1)(B).

(e) In considering the placement under subsection (d), the court shall consider the following:

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

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

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

SECTION 166. IC 31-34-21-0.2, AS ADDED BY P.L.220-2011, SECTION 516, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 0.2. At a child's first periodic case review occurring after June 30, 1998, the ~~county~~ **local** office ~~of family and children~~ is required to advise the child's parent, guardian, or custodian in writing that a petition to terminate the parent-child relationship must be filed with respect to the child after June 30, 1999, if the child has been removed from the child's parent and has been under the supervision of a ~~county~~ **local** office ~~of family and children~~ for at least fifteen (15) months of the most recent twenty-two (22) months. However, if a child's parent, guardian, or custodian fails to appear at the first periodic case review occurring after June 30, 1998, the ~~county~~ **local** office ~~of family and children~~ shall make reasonable efforts to send notice of the advisement to the last known address of the parent, guardian, or custodian.

SECTION 167. IC 31-34-21-4, AS AMENDED BY P.L.72-2008, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 4. (a) Except as provided in subsection (f), at least seven (7) days before the periodic case review, including a case review that is a permanency hearing under section 7 of this chapter, the department shall provide notice of the review to each of the following:

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

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

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

C o p y

(A) each consent to adoption of the child that is required under IC 31-19-9-1 has been executed in the form and manner required by IC 31-19-9 and filed with the ~~county~~ **local** office;

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

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

(4) The child's foster parent or long term foster parent.

(5) Any other person who:

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

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

(6) Any other suitable relative or person whom the department knows has had a significant or caretaking relationship to the child.

(b) The department shall present proof of service of the notice required by subsection (a) at the periodic case review.

(c) The department shall provide notices under this section as provided in IC 31-32-1-4.

(d) The court shall provide to a person described in subsection (a) an opportunity to be heard and to make any recommendations to the court in a periodic case review, including a permanency hearing under section 7 of this chapter. The right to be heard and to make recommendations under this subsection includes:

(1) the right of a person described in subsection (a) to submit a written statement to the court that, if served upon all parties to the child in need of services proceeding and the persons described in subsection (a), may be made a part of the court record; and

(2) the right to present oral testimony to the court and cross examine any of the witnesses at the hearing.

(e) Except as provided in subsection (f), this section does not exempt the department from sending a notice of the review to each party to the child in need of services proceeding.

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

SECTION 168. IC 31-34-21-7.3, AS AMENDED BY P.L.145-2006, SECTION 323, IS AMENDED TO READ AS FOLLOWS

C o p y

[EFFECTIVE JULY 1, 2012]: Sec. 7.3. (a) This section applies after:

(1) a court authorizes the filing of a petition to terminate the parent-child relationship; or

(2) a petition to terminate the parent-child relationship is filed;

in relation to a child in need of services.

(b) The department shall post the following nonidentifying information on the Internet to facilitate a potential adoptive placement of the child:

(1) The child's age, gender, and summary of the child's educational, social, and medical background, including known disabilities.

(2) The reason the child was removed from the child's home.

(3) Whether a person has expressed an interest in adopting the child.

(4) The name, address, and telephone number of a contact person from:

(A) the department;

(B) the appropriate ~~county~~ **local** office; or

(C) licensed child placing agency;

where a person who may be interested in adopting the child may obtain further information about adopting the child.

(5) Whether a petition to terminate the rights of the child's parents has been authorized or filed, and whether the rights of the child's parents have been terminated.

(6) An address and telephone number of:

(A) the department;

(B) the appropriate ~~county~~ **local** office; or

(C) licensed child placing agency;

where a person who may be interested in adopting the child may obtain further information about adopting the child.

(c) The information posted under subsection (b) may not identify the name of any of the following persons:

(1) The child.

(2) The child's biological or adoptive parents.

(3) A sibling of the child.

(4) A caretaker of the child.

(d) The department shall update any relevant information under this section after either of the following:

(1) Each of the child's periodic reviews that occur after the information under this section is required to be posted.

(2) The rights of the child's parents have been terminated.

(e) The department shall remove the information required under

Copy

subsection (b) from the Internet whenever the child is reunited with the child's family or an adoption of the child is filed under IC 31-19-2.

(f) Upon request, the department shall inform the person making the request of the address of the Internet web site containing the information described in this section.

SECTION 169. IC 31-34-21-7.5, AS AMENDED BY P.L.146-2008, SECTION 608, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 7.5. (a) Except as provided in subsection (d), the juvenile court may not approve a permanency plan under subsection (c)(1)(D), (c)(1)(E), or (c)(1)(F) if a person who is currently residing with a person described in subsection (c)(1)(D) or (c)(1)(E) or in a residence in which the child would be placed under subsection (c)(1)(F) has committed an act resulting in a substantiated report of child abuse or neglect, has a juvenile adjudication for an act that would be a felony listed in IC 31-27-4-13 if committed by an adult, or has a conviction for a felony listed in IC 31-27-4-13.

(b) Before requesting juvenile court approval of a permanency plan, the department shall conduct a criminal history check (as defined in IC 31-9-2-22.5) to determine if a person described in subsection (a) has committed an act resulting in a substantiated report of child abuse or neglect, has a juvenile adjudication for an act that would be a felony listed in IC 31-27-4-13 if committed by an adult, or has a conviction for a felony listed in IC 31-27-4-13. However, the department is not required to conduct a criminal history check under this section if criminal history information under IC 31-34-4-2, IC 31-34-18-6.1, or IC 31-34-20-1.5 establishes whether a person described in subsection (a) has committed an act resulting in a substantiated report of child abuse or neglect, has a juvenile adjudication for an act that would be a felony listed in IC 31-27-4-13 if committed by an adult, or has a conviction for a felony listed in IC 31-27-4-13.

(c) A permanency plan under this chapter includes the following:

(1) The intended permanent or long term arrangements for care and custody of the child that may include any of the following arrangements that the department or the court considers most appropriate and consistent with the best interests of the child:

(A) Return to or continuation of existing custodial care within the home of the child's parent, guardian, or custodian or placement of the child with the child's noncustodial parent.

(B) Initiation of a proceeding for termination of the parent-child relationship under IC 31-35.

(C) Placement of the child for adoption.

(D) Placement of the child with a responsible person,

C o p y

including:
(i) an adult sibling;
(ii) a grandparent;
(iii) an aunt;
(iv) an uncle; or
(v) another relative;
who is able and willing to act as the child's permanent custodian and carry out the responsibilities required by the permanency plan.
(E) Appointment of a legal guardian. The legal guardian appointed under this section is a caretaker in a judicially created relationship between the child and caretaker that is intended to be permanent and self-sustaining as evidenced by the transfer to the caretaker of the following parental rights with respect to the child:
(i) Care, custody, and control of the child.
(ii) Decision making concerning the child's upbringing.
(F) Placement of the child in another planned, permanent living arrangement.
(2) A time schedule for implementing the applicable provisions of the permanency plan.
(3) Provisions for temporary or interim arrangements for care and custody of the child, pending completion of implementation of the permanency plan.
(4) Other items required to be included in a case plan under IC 31-34-15 or federal law, consistent with the permanent or long term arrangements described by the permanency plan.
(d) A juvenile court may approve a permanency plan if:
(1) a person described in subsection (a) has:
(A) committed an act resulting in a substantiated report of child abuse or neglect; ~~or~~
(B) been convicted **of:** ~~or had a juvenile adjudication for:~~
~~(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);
(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 **a felony involving controlled explosives under** IC 35-47.5; ~~as a Class C or D felony;~~
(vi) a felony relating to controlled substances under

Copy

IC 35-48-4; ~~as a Class C or D felony; or~~

(vii) a felony under IC 9-30-5; or

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

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

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

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

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

(e) In making its written finding under subsection (d), the court shall consider the following:

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

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

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

SECTION 170. IC 31-35-1-4, AS AMENDED BY P.L.146-2007, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 4. (a) If requested by the parents:

(1) the ~~county~~ **local** office; ~~of family and children;~~ or

(2) a licensed child placing agency;

may sign and file a verified petition with the juvenile or probate court for the voluntary termination of the parent-child relationship.

(b) The petition must:

(1) be entitled "In the Matter of the Termination of the Parent-Child Relationship of _____, a child, and _____, the child's parent (or parents)"; and

(2) allege that:

(A) the parents are the child's natural or adoptive parents;

C o p y

(B) the parents, including the alleged or adjudicated father if the child was born out of wedlock:

(i) knowingly and voluntarily consent to the termination of the parent-child relationship; or

(ii) are not required to consent to the termination of the parent-child relationship under section 6(c) of this chapter;

(C) termination is in the child's best interest; and

(D) the petitioner has developed a satisfactory plan of care and treatment for the child.

SECTION 171. IC 31-35-1-12, AS AMENDED BY P.L.146-2007, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 12. For purposes of sections 6 and 8 of this chapter, the parents must be advised that:

(1) their consent is permanent and cannot be revoked or set aside unless it was obtained by fraud or duress or unless the parent is incompetent;

(2) when the court terminates the parent-child relationship:

(A) all rights, powers, privileges, immunities, duties, and obligations, including any rights to custody, control, parenting time, or support pertaining to the relationship, are permanently terminated; and

(B) their consent to the child's adoption is not required;

(3) the parents have a right to the:

(A) care;

(B) custody; and

(C) control;

of their child as long as the parents fulfill their parental obligations;

(4) the parents have a right to a judicial determination of any alleged failure to fulfill their parental obligations in a proceeding to adjudicate their child a delinquent child or a child in need of services;

(5) the parents have a right to assistance in fulfilling their parental obligations after a court has determined that the parents are not doing so;

(6) proceedings to terminate the parent-child relationship against the will of the parents can be initiated only after:

(A) the child has been adjudicated a delinquent child or a child in need of services and removed from their custody following the adjudication; or

(B) a parent has been convicted and imprisoned for an offense listed in IC 31-35-3-4 (or has been convicted and imprisoned

C o p y

for an offense listed in IC 31-6-5-4.2(a) before its repeal), the child has been removed from the custody of the parents under a dispositional decree, and the child has been removed from the custody of the parents for six (6) months under a court order;

(7) the parents are entitled to representation by counsel, provided by the state if necessary, throughout any proceedings to terminate the parent-child relationship against the will of the parents; ~~and~~

(8) the parents will receive notice of the hearing, unless notice is waived under section 5(b) of this chapter, at which the court will decide if their consent was voluntary, and the parents may appear at the hearing and allege that the consent was not voluntary; **and**

(9) the parents' consent cannot be based upon a promise regarding the child's adoption or contact of any type with the child after the parents voluntarily relinquish their parental rights of the child after entry of an order under this chapter terminating the parent-child relationship.

SECTION 172. IC 31-35-2-6.5, AS AMENDED BY P.L.162-2011, SECTION 53, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 6.5. (a) This section applies to hearings under this chapter relating to a child in need of services.

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

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

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

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

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

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

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

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

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

C o p y

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

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

(4) Any other person who:

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

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

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

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

(d) At least ten (10) days before a hearing on a petition or motion under this chapter, the department shall provide notice of the hearing to the child's foster parent by:

(1) certified mail; or

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

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

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

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

(h) If the parent of an abandoned child does not disclose the parent's name as allowed by IC 31-34-2.5-1(c) **or indicates that the child is being abandoned under IC 31-34-2.5,** the parent is not required to be

C o p y

notified of a hearing described in subsection (c).

SECTION 173. IC 31-35-2-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 8. (a) Except as provided in section 4.5(d) of this chapter, if the court finds that the allegations in a petition described in section 4 of this chapter are true, the court shall terminate the parent-child relationship.

(b) If the court does not find that the allegations in the petition are true, the court shall dismiss the petition.

(c) The court shall enter findings of fact that support the entry of the conclusions required by subsections (a) and (b).

SECTION 174. IC 31-37-17-8, AS ADDED BY P.L.131-2009, SECTION 69, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 8. Unless prohibited by federal law, a probation department and:

(1) the division of family resources;

(2) a ~~county~~ **local** office; and

(3) the department of child services;

may exchange information for use in preparing a report under this chapter.

SECTION 175. IC 31-37-20-4.5, AS ADDED BY P.L.138-2007, SECTION 86, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 4.5. (a) At least ten (10) days before a hearing under section 2 or 3 of this chapter, the probation department shall send notice of the hearing to each of the following:

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

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

(3) The child or an attorney who has entered an appearance on behalf of the child.

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

(A) each consent to adoption of the child that is required under IC 31-19-9-1 has been executed in the form and manner required by IC 31-19-9 and filed with the ~~county~~ **local** office;

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

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

C o p y

(5) Any other person who:

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

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

(6) Any other suitable relative or person whom the probation department knows has had a significant or caretaking relationship to the child.

(b) The court shall provide to a person described in subsection (a) an opportunity to be heard and to make any recommendations to the court in a hearing under section 2 or 3 of this chapter. The right to be heard and to make recommendations under this subsection includes:

(1) the right of a person described in subsection (a) to submit a written statement to the court that, if served upon all parties to the delinquency proceeding and the persons described in subsection (a), may be made a part of the court record; and

(2) the right to present oral testimony to the court and cross-examine any of the witnesses at the hearing.

(c) This section does not exempt the probation department from sending a notice of the review to each party to the delinquency proceeding.

(d) The court shall continue the hearing if, at the time set for the hearing, the probation department has not provided the court with a signed verification that any person required to be notified under this section has been notified in the manner stated in the verification, unless the person appears for the hearing.

SECTION 176. IC 31-39-2-6, AS AMENDED BY P.L.182-2009(ss), SECTION 384, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 6. The records of the juvenile court are available without a court order to:

(1) the attorney for the department of child services; or

(2) any authorized staff member of:

(A) the ~~county~~ **local** office;

(B) the department of child services;

(C) the department of correction; or

(D) the department of child services ombudsman established by IC 4-13-19-3.

SECTION 177. IC 33-32-4-2, AS AMENDED BY P.L.145-2006, SECTION 365, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 2. **(a)** As used in this chapter, "Indiana support enforcement tracking system (ISETS)" refers to the statewide automated system for the collection, disbursement, and

C o p y

distribution of child support payments established by the department of child services.

(b) As used in this chapter, "successor statewide automated support enforcement system" means a statewide automated system for the collection, disbursement, and distribution of child support payments established by the department of child services.

SECTION 178. IC 33-32-4-2.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: **Sec. 2.5. The Indiana support enforcement tracking system (ISETS) or the successor statewide automated support enforcement system is the official record of the collection, disbursement, and distribution of child support payments as required under 42 U.S.C. 654.**

SECTION 179. IC 33-32-4-5, AS AMENDED BY P.L.148-2006, SECTION 31, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 5. The state central collection unit is not liable and the clerk is not personally liable or liable in the clerk's official capacity on the clerk's official bond for funds received if the state central collection unit or the clerk:

(1) through error or in accordance with the best information available to the state central collection unit or the clerk, disbursed the funds to a person the state central collection unit or the clerk reasonably believed to be entitled to receive the funds and to comply with a:

(A) child support order; or

(B) garnishment order;

(2) inappropriately disbursed or misapplied child support funds, arising without the knowledge or approval of the state central collection unit or the clerk, that resulted from:

(A) an action by an employee of, or a consultant to, the department of child services or the Title IV-D agency;

(B) an ISETS **or the successor statewide automated support enforcement system** technological error; or

(C) information generated by ISETS **or the successor statewide automated support enforcement system;**

(3) disbursed funds that the state central collection unit or the clerk reasonably believed were available for disbursement but that were not actually available for disbursement;

(4) disbursed child support funds paid to the central collection unit by a personal check that was later dishonored by a financial institution; and

(5) did not commit a criminal offense as a part of the

C o p y

disbursement.

SECTION 180. IC 33-37-5-2, AS AMENDED BY P.L.229-2011, SECTION 257, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 2. (a) Each clerk shall establish a clerk's record perpetuation fund. The clerk shall deposit all the following in the fund:

(1) Revenue received by the clerk for transmitting documents by facsimile machine to a person under IC 5-14-3.

(2) Document storage fees required under section 20 of this chapter.

(3) The late payment fees imposed under section 22 of this chapter that are authorized for deposit in the clerk's record perpetuation fund under IC 33-37-7-2.

(4) The fees required under IC 29-1-7-3.1 for deposit of a will.

(5) Automated record keeping fees deposited in the fund under ~~IC 33-37-7-2(n).~~ **IC 33-37-7-2(m).**

(b) The clerk may use any money in the fund for the following purposes:

(1) The preservation of records.

(2) The improvement of record keeping systems and equipment.

(3) Case management system.

SECTION 181. IC 33-37-5-6, AS AMENDED BY P.L.103-2007, SECTION 49, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 6. (a) This section applies to an action in which a final court order requires a person to pay support or maintenance payments through the clerk or the state central collection unit.

(b) The clerk or the state central collection unit shall collect a fee in addition to support and maintenance payments. The fee is fifty-five dollars ($55) for each calendar year.

(c) The fee required under subsection (b) is due at the time that the first support or maintenance payment for the calendar year in which the fee must be paid is due.

(d) The clerk may not deduct the fee from a support or maintenance payment.

(e) Except as provided under IC 33-32-4-6 and ~~IC 33-37-7-2(g),~~ **IC 33-37-7-2(f),** if a fee is collected under this section by the clerk, the clerk shall forward the fee to the county auditor in accordance with IC 33-37-7-12(a). If a fee is collected under this section by the central collection unit, the fee shall be deposited in the state general fund.

(f) Income payors required to withhold income under IC 31-16-15 shall pay the annual fee required by subsection (b) through the income withholding procedures described in IC 31-16-15.

C o p y

SECTION 182. IC 33-37-7-2, AS AMENDED BY P.L.229-2011, SECTION 260, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 2. (a) The clerk of a circuit court shall distribute semiannually to the auditor of state as the state share for deposit in the homeowner protection unit account established by IC 4-6-12-9 one hundred percent (100%) of the automated record keeping fees collected under IC 33-37-5-21 with respect to actions resulting in the accused person entering into a pretrial diversion program agreement under IC 33-39-1-8 or a deferral program agreement under IC 34-28-5-1 and for deposit in the state general fund seventy percent (70%) of the amount of fees collected under the following:

(1) IC 33-37-4-1(a) (criminal costs fees).
(2) IC 33-37-4-2(a) (infraction or ordinance violation costs fees).
(3) IC 33-37-4-3(a) (juvenile costs fees).
(4) IC 33-37-4-4(a) (civil costs fees).
(5) IC 33-37-4-6(a)(1)(A) (small claims costs fees).
(6) IC 33-37-4-7(a) (probate costs fees).
(7) IC 33-37-5-17 (deferred prosecution fees).

(b) The clerk of a circuit court shall distribute semiannually to the auditor of state for deposit in the state user fee fund established in IC 33-37-9-2 the following:

(1) Twenty-five percent (25%) of the drug abuse, prosecution, interdiction, and correction fees collected under IC 33-37-4-1(b)(5).
(2) Twenty-five percent (25%) of the alcohol and drug countermeasures fees collected under IC 33-37-4-1(b)(6), IC 33-37-4-2(b)(4), and IC 33-37-4-3(b)(5).
(3) ~~Fifty~~ **One hundred** percent ~~(50%)~~ **(100%)** of the child abuse prevention fees collected under IC 33-37-4-1(b)(7).
(4) One hundred percent (100%) of the domestic violence prevention and treatment fees collected under IC 33-37-4-1(b)(8).
(5) One hundred percent (100%) of the highway work zone fees collected under IC 33-37-4-1(b)(9) and IC 33-37-4-2(b)(5).
(6) One hundred percent (100%) of the safe schools fee collected under IC 33-37-5-18.
(7) The following:
(A) For a county operating under the state's automated judicial system, one hundred percent (100%) of the automated record keeping fee (IC 33-37-5-21) not distributed under subsection (a).
(B) For a county not operating under the state's automated

C o p y

judicial system, eighty percent (80%) of the automated record keeping fee (IC 33-37-5-21) not distributed under subsection (a).

(c) The clerk of a circuit court shall distribute monthly to the county auditor the following:

(1) Seventy-five percent (75%) of the drug abuse, prosecution, interdiction, and correction fees collected under IC 33-37-4-1(b)(5).

(2) Seventy-five percent (75%) of the alcohol and drug countermeasures fees collected under IC 33-37-4-1(b)(6), IC 33-37-4-2(b)(4), and IC 33-37-4-3(b)(5).

The county auditor shall deposit fees distributed by a clerk under this subsection into the county drug free community fund established under IC 5-2-11.

~~(d) The clerk of a circuit court shall distribute monthly to the county auditor fifty percent (50%) of the child abuse prevention fees collected under IC 33-37-4-1(b)(7). The county auditor shall deposit fees distributed by a clerk under this subsection into the county child advocacy fund established under IC 12-17-17.~~

~~(e)~~ **(d)** The clerk of a circuit court shall distribute monthly to the county auditor one hundred percent (100%) of the late payment fees collected under IC 33-37-5-22. The county auditor shall deposit fees distributed by a clerk under this subsection as follows:

(1) If directed to do so by an ordinance adopted by the county fiscal body, the county auditor shall deposit forty percent (40%) of the fees in the clerk's record perpetuation fund established under IC 33-37-5-2 and sixty percent (60%) of the fees in the county general fund.

(2) If the county fiscal body has not adopted an ordinance described in subdivision (1), the county auditor shall deposit all the fees in the county general fund.

~~(f)~~ **(e)** The clerk of the circuit court shall distribute semiannually to the auditor of state for deposit in the sexual assault victims assistance account established by IC 5-2-6-23(h) one hundred percent (100%) of the sexual assault victims assistance fees collected under IC 33-37-5-23.

~~(g)~~ **(f)** The clerk of a circuit court shall distribute monthly to the county auditor the following:

(1) One hundred percent (100%) of the support and maintenance fees for cases designated as non-Title IV-D child support cases in the Indiana support enforcement tracking system (ISETS) **or the successor statewide automated support enforcement system**

C o p y

collected under IC 33-37-5-6.

(2) The percentage share of the support and maintenance fees for cases designated as **Title** IV-D child support cases in ISETS **or the successor statewide automated support enforcement system** collected under IC 33-37-5-6 that is reimbursable to the county at the federal financial participation rate.

The county clerk shall distribute monthly to the ~~office of the secretary of family and social services~~ **department of child services** the percentage share of the support and maintenance fees for cases designated as Title IV-D child support cases in ISETS, **or the successor statewide automated support enforcement system,** collected under IC 33-37-5-6 that is not reimbursable to the county at the applicable federal financial participation rate.

~~(h)~~ **(g)** The clerk of a circuit court shall distribute monthly to the county auditor the following:

(1) One hundred percent (100%) of the small claims service fee under IC 33-37-4-6(a)(1)(B) or IC 33-37-4-6(a)(2) for deposit in the county general fund.

(2) One hundred percent (100%) of the small claims garnishee service fee under IC 33-37-4-6(a)(1)(C) or IC 33-37-4-6(a)(3) for deposit in the county general fund.

~~(i)~~ **(h)** This subsection does not apply to court administration fees collected in small claims actions filed in a court described in IC 33-34. The clerk of a circuit court shall semiannually distribute to the auditor of state for deposit in the state general fund one hundred percent (100%) of the following:

(1) The public defense administration fee collected under IC 33-37-5-21.2.

(2) The judicial salaries fees collected under IC 33-37-5-26.

(3) The DNA sample processing fees collected under IC 33-37-5-26.2.

(4) The court administration fees collected under IC 33-37-5-27.

~~(j)~~ **(i)** The clerk of a circuit court shall semiannually distribute to the auditor of state for deposit in the judicial branch insurance adjustment account established by IC 33-38-5-8.2 one hundred percent (100%) of the judicial insurance adjustment fee collected under IC 33-37-5-25.

~~(k)~~ **(j)** The proceeds of the service fee collected under IC 33-37-5-28(b)(1) or IC 33-37-5-28(b)(2) shall be distributed as follows:

(1) The clerk shall distribute one hundred percent (100%) of the service fees collected in a circuit, superior, county, or probate court to the county auditor for deposit in the county general fund.

C o p y

(2) The clerk shall distribute one hundred percent (100%) of the service fees collected in a city or town court to the city or town fiscal officer for deposit in the city or town general fund.

~~(l)~~ **(k)** The proceeds of the garnishee service fee collected under IC 33-37-5-28(b)(3) or IC 33-37-5-28(b)(4) shall be distributed as follows:

(1) The clerk shall distribute one hundred percent (100%) of the garnishee service fees collected in a circuit, superior, county, or probate court to the county auditor for deposit in the county general fund.

(2) The clerk shall distribute one hundred percent (100%) of the garnishee service fees collected in a city or town court to the city or town fiscal officer for deposit in the city or town general fund.

~~(m)~~ **(l)** The clerk of the circuit court shall distribute semiannually to the auditor of state for deposit in the home ownership education account established by IC 5-20-1-27 one hundred percent (100%) of the following:

(1) The mortgage foreclosure counseling and education fees collected under IC 33-37-5-30 (before its expiration on January 1, 2013).

(2) Any civil penalties imposed and collected by a court for a violation of a court order in a foreclosure action under IC 32-30-10.5.

~~(n)~~ **(m)** This subsection applies to a county that is not operating under the state's automated judicial system. The clerk of a circuit court shall distribute monthly to the county auditor twenty percent (20%) of the automated record keeping fee (IC 33-37-5-21) not distributed under subsection (a) for deposit in the clerk's record perpetuation fund.

SECTION 183. IC 36-2-14-6.3, AS AMENDED BY P.L.131-2009, SECTION 75, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 6.3. (a) A coroner shall immediately notify:

(1) the ~~county~~ **local** office of the department of child services by using the statewide hotline for the department; and

(2) either:

(A) the local child fatality review team; or

(B) if the county does not have a local child fatality review team, the statewide child fatality review committee;

of each death of a person who is less than eighteen (18) years of age, or appears to be less than eighteen (18) years of age and who has died in an apparently suspicious, unexpected, or unexplained manner.

(b) If a child less than eighteen (18) years of age dies in an apparently suspicious, unexpected, or unexplained manner, the coroner

C o p y

shall consult with a child death pathologist to determine whether an autopsy is necessary. If the coroner and the child death pathologist disagree over the need for an autopsy, the county prosecutor shall determine whether an autopsy is necessary. If the autopsy is considered necessary, a child death pathologist or a pathology resident acting under the direct supervision of a child death pathologist shall conduct the autopsy within twenty-four (24) hours. If the autopsy is not considered necessary, the autopsy shall not be conducted.

(c) If a child death pathologist and coroner agree under subsection (b) that an autopsy is necessary, the child death pathologist or a pathology resident acting under the direct supervision of a child death pathologist shall conduct the autopsy of the child.

C o p y

President of the Senate

President Pro Tempore

Speaker of the House of Representatives

Governor of the State of Indiana

Date: _____ Time: _____

C o p y