



Reprinted
April 5, 2013

ENGROSSED HOUSE BILL No. 1494

DIGEST OF HB 1494 (Updated April 4, 2013 2:39 pm - DI 110)

Citations Affected: IC 10-13; IC 12-7; IC 12-17.2.

Synopsis: National criminal history background checks for child care. Requires: (1) employees and volunteers of certain child care providers; and (2) for applicants applying for a license to operate a child care home, the applicant's spouse and certain household members of the applicant; to undergo national criminal history background checks. Provides that a child care provider that holds a license or registration on July 1, 2013 has until July 1, 2014 to meet the requirements regarding national criminal history background checks. Requires the state police department to release the result of a national criminal history background check to the division of family resources. Amends the list of felony convictions and certain other offenses related to the: (1) application, denial, and revocation of a child care license or registration; and (2) eligibility for child care voucher payments. (The introduced version of this bill was prepared by the committee on child care.)

Effective: July 1, 2013.

Summers, Mahan

(SENATE SPONSORS — HOLDMAN, TAYLOR, KRUSE, ZAKAS,
RANDOLPH)

January 22, 2013, read first time and referred to Committee on Family, Children and Human Affairs.

February 14, 2013, amended, reported — Do Pass.

February 18, 2013, read second time, ordered engrossed.

February 19, 2013, engrossed. Read third time, passed. Yeas 90, nays 0.

SENATE ACTION

February 25, 2013, read first time and referred to Committee on Public Policy.

March 14, 2013, amended, reported favorably — Do Pass.

April 4, 2013, read second time, amended, ordered engrossed.

EH 1494—LS 6733/DI 97+



C
O
P
Y

Reprinted
April 5, 2013

First Regular Session 118th General Assembly (2013)

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 2012 Regular Session of the General Assembly.

ENGROSSED HOUSE BILL No. 1494

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

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

1 SECTION 1. IC 10-13-3-28, AS AMENDED BY P.L.127-2011,
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2013]: Sec. 28. On request of an individual who has applied
4 for employment **or to volunteer** with a noncriminal justice
5 organization or individual, the Indiana central repository for criminal
6 history information shall process a request for a national fingerprint
7 based criminal history check of the individual making the request from
8 the Federal Bureau of Investigation's National Crime Information
9 Center upon:

- 10 (1) the submission of fingerprints of the individual making the
11 request; and
12 (2) the payment of a fifteen dollar (\$15) fee.

13 SECTION 2. IC 12-7-2-53.2 IS ADDED TO THE INDIANA CODE
14 AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY
15 1, 2013]: **Sec. 53.2. "Dangerous felony", for purposes of IC 12-17.2,**
16 **means one (1) or more of the following felonies:**

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

EH 1494—LS 6733/DI 97+



C
O
P
Y

- 1 **(2) Attempted murder (IC 35-41-5-1).**
- 2 **(3) Voluntary manslaughter (IC 35-42-1-3).**
- 3 **(4) Involuntary manslaughter (IC 35-42-1-4).**
- 4 **(5) Reckless homicide (IC 35-42-1-5).**
- 5 **(6) Aggravated battery (IC 35-42-2-1.5).**
- 6 **(7) Kidnapping (IC 35-42-3-2).**
- 7 **(8) Rape (IC 35-42-4-1).**
- 8 **(9) Criminal deviate conduct (IC 35-42-4-2).**
- 9 **(10) Child molesting (IC 35-42-4-3).**
- 10 **(11) Sexual misconduct with a minor as a Class A felony**
11 **under IC 35-42-4-9(a)(2) or a Class B felony under**
12 **IC 35-42-4-9(b)(2).**
- 13 **(12) Robbery as a Class A or Class B felony (IC 35-42-5-1).**
- 14 **(13) Burglary as a Class A or Class B felony (IC 35-43-2-1).**
- 15 **(14) Battery as a felony (IC 35-42-2-1).**
- 16 **(15) Domestic battery (IC 35-42-2-1.3).**
- 17 **(16) Strangulation (IC 35-42-2-9).**
- 18 **(17) Criminal confinement (IC 35-42-3-3).**
- 19 **(18) Sexual battery (IC 35-42-4-8).**
- 20 **(19) A felony committed in another jurisdiction that is**
21 **substantially similar to a felony in this section.**
- 22 **(20) An attempt to commit or a conspiracy to commit an**
23 **offense listed in subdivisions (1) through (19).**

24 SECTION 3. IC 12-7-2-131.8 IS ADDED TO THE INDIANA
25 CODE AS A NEW SECTION TO READ AS FOLLOWS
26 [EFFECTIVE JULY 1, 2013]: **Sec. 131.8. "National criminal history**
27 **background check", for purposes of IC 12-17.2, has the meaning**
28 **set forth in IC 10-13-3-12.**

29 SECTION 4. IC 12-17.2-2-1, AS AMENDED BY P.L.1-2009,
30 SECTION 105, IS AMENDED TO READ AS FOLLOWS
31 [EFFECTIVE JULY 1, 2013]: Sec. 1. The division shall perform the
32 following duties:

- 33 (1) Administer the licensing and monitoring of child care centers
34 or child care homes in accordance with this article.
- 35 (2) Ensure that a national criminal history background check of
36 the **applicant following** is completed through the state police
37 department under IC 10-13-3-39 before issuing a license:
 - 38 **(A) An applicant for a license.**
 - 39 **(B) An employee or volunteer of an applicant who has**
40 **direct contact with a child who is receiving child care from**
41 **the applicant.**
 - 42 **(C) If an applicant is applying for a license to operate a**

C
o
p
y



- 1 **child care home, the following:**
 2 **(i) The applicant's spouse.**
 3 **(ii) The applicant's household members who are at least**
 4 **eighteen (18) years of age or who are less than eighteen**
 5 **(18) years of age but have previously been waived from**
 6 **juvenile court to adult court.**
- 7 (3) Ensure that a **national** criminal history background check of
 8 a child care ministry applicant for registration **the following** is
 9 completed **through the state police department under**
 10 **IC 10-13-3-39** before registering ~~the~~ a child care ministry:
 11 **(A) An applicant for a child care ministry registration.**
 12 **(B) An employee or volunteer of an applicant who has**
 13 **direct contact with a child who is receiving child care from**
 14 **the applicant.**
- 15 (4) Provide for the issuance, denial, suspension, and revocation of
 16 licenses.
- 17 (5) Cooperate with governing bodies of child care centers and
 18 child care homes and their staffs to improve standards of child
 19 care.
- 20 (6) Prepare at least biannually a directory of licensees with a
 21 description of the program capacity and type of children served
 22 that will be distributed to the legislature, licensees, and other
 23 interested parties as a public document.
- 24 (7) Deposit all license application fees collected under section 2
 25 of this chapter in the division of family resources child care fund
 26 established by ~~IC 12-17.2-2-3~~ **section 3 of this chapter.**
- 27 (8) Require each child care center or child care home to record
 28 proof of a child's date of birth before accepting the child. A child's
 29 date of birth may be proven by the child's original birth certificate
 30 or other reliable proof of the child's date of birth, including a duly
 31 attested transcript of a birth certificate.
- 32 (9) Provide an Internet site through which members of the public
 33 may obtain the following information:
 34 (A) Information concerning violations of this article by a
 35 licensed child care provider, including:
 36 (i) the identity of the child care provider;
 37 (ii) the date of the violation; and
 38 (iii) action taken by the division in response to the violation.
 39 (B) Current status of a child care provider's license.
 40 (C) Other relevant information.
- 41 The Internet site may not contain the address of a child care home
 42 or information identifying an individual child. However, the site

C
O
P
Y

1 may include the county and ZIP code in which a child care home
2 is located.

3 (10) Provide or approve training concerning safe sleeping
4 practices for children to:

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

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

10 SECTION 5. IC 12-17.2-2-14 IS ADDED TO THE INDIANA
11 CODE AS A NEW SECTION TO READ AS FOLLOWS
12 [EFFECTIVE JULY 1, 2013]: **Sec. 14. (a) The state police
13 department shall release the results of a national criminal history
14 background check conducted in accordance with this article to the
15 division.**

16 **(b) The division may not release records received from the state
17 police department under subsection (a).**

18 SECTION 6. IC 12-17.2-3.5-4 IS AMENDED TO READ AS
19 FOLLOWS [EFFECTIVE JULY 1, 2013]: **Sec. 4. A provider who is
20 ineligible to receive a voucher payment if the provider:**

21 (1) has been convicted of a:

22 (A) felony:

23 (i) related to the health or safety of a child;

24 (ii) that is a sex offense (as defined in IC 11-8-8-5.2);

25 (iii) that is a dangerous felony; or

26 (iv) that is not a felony otherwise described in items (i)
27 through (iii), and less than ten (10) years have elapsed
28 from the date the person was discharged from probation,
29 imprisonment, or parole, whichever discharge date is
30 latest;

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

32 (C) misdemeanor for operating a child care center without a
33 license under IC 12-17.2-4-35, or of a substantially similar
34 offense committed in another jurisdiction if the offense is
35 directly or indirectly related to jeopardizing the health or
36 safety of a child; or

37 (D) misdemeanor for operating a child care home without a
38 license under IC 12-17.2-5-35, or of a substantially similar
39 offense committed in another jurisdiction if the offense is
40 directly or indirectly related to jeopardizing the health or
41 safety of a child;

42 (2) employs or otherwise allows an individual who has been

C
O
P
Y



1 convicted of a crime specified under subdivision (1) to
 2 ~~(A)~~ serve as a caregiver to a child in the provider's care; or
 3 ~~(B)~~ reside with the provider, if the provider operates a child
 4 care program in the provider's home; or

5 **(3) employs an individual or allows an individual to volunteer**
 6 **who:**

7 **(A) has direct contact with a child who is receiving child**
 8 **care from the provider; and**

9 **(B) has been convicted of a crime specified in subdivision**
 10 **(1); or**

11 ~~(3)~~ **(4) fails to meet the requirements set forth in sections 5**
 12 **through 12.1 of this chapter.**

13 **is ineligible to receive a voucher payment.**

14 SECTION 7. IC 12-17.2-3.5-12, AS AMENDED BY P.L.142-2006,
 15 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 16 JULY 1, 2013]: Sec. 12. (a) Except as provided in subsection (f) **and**
 17 **subject to subsection (g)**, a provider shall, at no expense to the state,
 18 **maintain and make available to the division upon request a copy of a**
 19 **limited criminal history for: do the following:**

20 (1) ~~the provider~~; If the provider is an individual, **submit the**
 21 **provider's fingerprints for a national criminal history**
 22 **background check by the Federal Bureau of Investigation.**

23 (2) If the provider operates a child care program in the provider's
 24 home, **require:**

25 **(A) the provider's spouse; and**

26 **(B) any individual who resides with the provider and who is:**

27 ~~(A)~~ **(i) at least eighteen (18) years of age; or**

28 ~~(B)~~ **(ii) less than eighteen (18) years of age but has**
 29 **previously been waived from juvenile court to adult court;**
 30 **and**

31 **to submit fingerprints for a national criminal history**
 32 **background check by the Federal Bureau of Investigation.**

33 (3) **Require** any individual who:

34 **(A) is employed or**

35 ~~(B)~~ **volunteers; and**

36 **(B) has direct contact with a child who is receiving child**
 37 **care from the provider;**

38 **as a caregiver at the facility where the provider operates a child**
 39 **care program to submit fingerprints for a national criminal**
 40 **history background check by the Federal Bureau of**
 41 **Investigation.**

42 **A provider shall require an individual described in subdivision (3)**

C
O
P
Y



1 **to apply submit fingerprints for a limited national criminal history**
 2 **for an individual described in subdivision (3) background check**
 3 **before the individual is employed or allowed to volunteer as a**
 4 **caregiver. and every three (3) years thereafter that the individual**
 5 **is continuously employed or allowed to volunteer.**

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

- 8 (1) police investigations;
 9 (2) arrests; and
 10 (3) criminal convictions;

11 **not listed on a limited criminal history obtained under subsection (a) of**
 12 **which the provider is aware** regarding any of the persons listed in
 13 subsection (a).

14 (c) A provider that meets the other eligibility requirements of this
 15 chapter is temporarily eligible to receive voucher payments until the
 16 **provider division** receives the **limited national criminal history**
 17 **background check** required under subsection (a) from the state police
 18 department if:

19 (1) the provider:

20 (A) has:

- 21 **(i) applied for the limited submitted; or**
 22 **(ii) required an individual described in subsection (a)(2)**
 23 **or (a)(3) to submit;**

24 **fingerprints for a national criminal history background**
 25 **check as** required under subsection (a); and

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

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

32 (A) felony:

- 33 **(i) related to the health or safety of a child;**
 34 **(ii) that is a sex offense (as defined in IC 11-8-8-5.2);**
 35 **(iii) that is a dangerous felony; or**
 36 **(iv) that is not a felony otherwise described in items (i)**
 37 **through (iii), and less than ten (10) years have elapsed**
 38 **from the date the person was discharged from probation,**
 39 **imprisonment, or parole, whichever discharge date is**
 40 **latest;**

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

42 (C) misdemeanor for operating a child care center without a

C
O
P
Y



1 license under IC 12-17.2-4-35, **or of a substantially similar**
 2 **offense committed in another jurisdiction if the offense is**
 3 **directly or indirectly related to jeopardizing the health or**
 4 **safety of a child; or**

5 (D) misdemeanor for operating a child care home without a
 6 license under IC 12-17.2-5-35, **or of a substantially similar**
 7 **offense committed in another jurisdiction if the offense is**
 8 **directly or indirectly related to jeopardizing the health or**
 9 **safety of a child.**

10 (d) A provider is ineligible to receive a voucher payment if an
 11 individual for whom a ~~limited~~ **national criminal history background**
 12 **check** is required under this section has been convicted of a:

13 (1) felony:

14 (A) **related to the health or safety of a child;**

15 (B) **that is a sex offense (as defined in IC 11-8-8-5.2);**

16 (C) **that is a dangerous felony; or**

17 (D) **that is not a felony otherwise described in clauses (A)**
 18 **through (C), and less than ten (10) years have elapsed from**
 19 **the date the person was discharged from probation,**
 20 **imprisonment, or parole, whichever discharge date is**
 21 **latest;**

22 (2) misdemeanor related to the health or safety of a child;

23 (3) misdemeanor for operating a child care center without a
 24 license under IC 12-17.2-4-35, **or of a substantially similar**
 25 **offense committed in another jurisdiction, if the offense is**
 26 **directly or indirectly related to jeopardizing the health or**
 27 **safety of a child; or**

28 (4) misdemeanor for operating a child care home without a
 29 license under IC 12-17.2-5-35, **or of a substantially similar**
 30 **offense committed in another jurisdiction, if the offense is**
 31 **directly or indirectly related to jeopardizing the health or**
 32 **safety of a child;**

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

36 (e) A provider shall maintain a written policy requiring an
 37 individual for whom a ~~limited~~ **national criminal history background**
 38 **check** is required under this section to report any criminal convictions
 39 of the individual to the provider.

40 (f) **Notwithstanding IC 10-13-3-28**, the state police department
 41 may not charge a church or religious society any fees or costs (**other**
 42 **than fees or costs charged by the Federal Bureau of Investigation**

C
o
p
y



1 **or a private entity)** for responding to a request for a release of a
 2 **limited national criminal history background check** record of a
 3 prospective or current employee or a prospective or current volunteer
 4 of a child care ministry registered under IC 12-17.2-6 if the conditions
 5 set forth in IC 10-13-3-36(f) are met.

6 **(g) A provider that holds a license or registration under this**
 7 **article on July 1, 2013, shall, at no expense to the state, meet the**
 8 **requirements under subsection (a) not later than July 1, 2014.**

9 SECTION 8. IC 12-17.2-4-3, AS AMENDED BY P.L.145-2006,
 10 SECTION 97, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 11 JULY 1, 2013]: Sec. 3. (a) An applicant must apply for a child care
 12 center license on forms provided by the division.

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

15 (c) The applicant must submit with the application a statement
 16 attesting that the applicant:

17 (1) has not been convicted of:

18 (A) a felony:

19 **(i) related to the health or safety of a child;**

20 **(ii) that is a sex offense (as defined in IC 11-8-8-5.2);**

21 **(iii) that is a dangerous felony; or**

22 **(iv) that is not a felony otherwise described in items (i)**
 23 **through (iii), and less than ten (10) years have elapsed**
 24 **from the date the person was discharged from probation,**
 25 **imprisonment, or parole, whichever discharge date is**
 26 **latest;**

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

28 (C) a misdemeanor for operating a child care center without a
 29 license under section 35 of this chapter, **or of a substantially**
 30 **similar offense committed in another jurisdiction if the**
 31 **offense is directly or indirectly related to jeopardizing the**
 32 **health or safety of a child; or**

33 (D) a misdemeanor for operating a child care home without a
 34 license under IC 12-17.2-5-35, **or of a substantially similar**
 35 **offense committed in another jurisdiction if the offense is**
 36 **directly or indirectly related to jeopardizing the health or**
 37 **safety of a child; and**

38 (2) has not been charged with:

39 (A) a felony;

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

41 (C) a misdemeanor for operating a child care center without a
 42 license under section 35 of this chapter, **or with a**

C
O
P
Y



1 **substantially similar offense in another jurisdiction if the**
 2 **offense is directly or indirectly related to jeopardizing the**
 3 **health or safety of a child; or**
 4 (D) a misdemeanor for operating a child care home without a
 5 license under IC 12-17.2-5-35, **or with a substantially**
 6 **similar offense in another jurisdiction if the offense is**
 7 **directly or indirectly related to jeopardizing the health or**
 8 **safety of a child;**

9 during the pendency of the application.
 10 (d) An applicant ~~must~~, **shall, at no expense to the state**, submit:
 11 (1) the necessary information, forms, or consents; ~~for the division~~
 12 ~~to obtain and~~
 13 **(2) the applicant's fingerprints;**
 14 **for a national criminal history background check on the applicant**
 15 **through the state police department under IC 10-13-3-39; by the**
 16 **Federal Bureau of Investigation.**

17 (e) **Subject to section 3.3 of this chapter**, the applicant must, **at no**
 18 **expense to the state**, do the following:
 19 (1) ~~Conduct~~ **Require an employee or volunteer of the applicant**
 20 **who has direct contact with a child who is receiving child care**
 21 **from the applicant to submit fingerprints for a national**
 22 **criminal history background check of the applicant's employees**
 23 **and volunteers: by the Federal Bureau of Investigation.**
 24 (2) ~~Maintain records of each criminal history check. Report to~~
 25 ~~the division any:~~
 26 (A) **police investigations;**
 27 (B) **arrests; and**
 28 (C) **criminal convictions;**
 29 **of which the applicant is aware regarding the applicant or an**
 30 **employee or volunteer described in subdivision (1).**

31 **An applicant shall require an individual described in subdivision**
 32 **(1) to apply for a national criminal history background check**
 33 **before the individual is employed or allowed to volunteer and every**
 34 **three (3) years thereafter that the individual is continuously**
 35 **employed or allowed to volunteer.**

36 SECTION 9. IC 12-17.2-4-3.3 IS ADDED TO THE INDIANA
 37 CODE AS A NEW SECTION TO READ AS FOLLOWS
 38 [EFFECTIVE JULY 1, 2013]: **Sec. 3.3. A person that holds a license**
 39 **under this chapter on July 1, 2013, shall, at no expense to the state,**
 40 **meet the requirements under section 3(e) of this chapter not later**
 41 **than July 1, 2014.**

42 SECTION 10. IC 12-17.2-4-5, AS AMENDED BY P.L.146-2006,

C
O
P
Y



1 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
2 JULY 1, 2013]: Sec. 5. (a) The following constitute sufficient grounds
3 for a denial of a license application:

4 (1) A determination by the department of child services
5 established by IC 31-25-1-1 of child abuse or neglect (as defined
6 in IC 31-9-2-14) by:

7 (A) the applicant;

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

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

14 (2) A criminal conviction of the applicant, an employee of the
15 applicant who has direct contact ~~on a regular and continuous~~
16 ~~basis~~, with children who are ~~under the direct supervision of~~
17 **receiving child care from** the applicant, or a volunteer of the
18 applicant who has direct contact ~~on a regular and continuous~~
19 ~~basis~~, with children who are ~~under the direct supervision of~~
20 **receiving child care from** the applicant, of any of the following:

21 (A) A felony:

22 (i) **related to the health or safety of a child;**

23 (ii) **that is a sex offense (as defined in IC 11-8-8-5.2);**

24 (iii) **that is a dangerous felony; or**

25 (iv) **that is not a felony otherwise described in items (i)**
26 **through (iii), and less than ten (10) years have elapsed**
27 **from the date the person was discharged from probation,**
28 **imprisonment, or parole, whichever discharge date is**
29 **latest.**

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

31 (C) A misdemeanor for operating a child care center without
32 a license under section 35 of this chapter, **or a substantially**
33 **similar offense in another jurisdiction if the offense is**
34 **directly or indirectly related to jeopardizing the health or**
35 **safety of a child.**

36 (D) A misdemeanor for operating a child care home without a
37 license under IC 12-17.2-5-35, **or a substantially similar**
38 **offense in another jurisdiction if the offense is directly or**
39 **indirectly related to jeopardizing the health or safety of a**
40 **child.**

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

C
o
p
y



- 1 (4) A determination by the division that the applicant made false
 2 statements in the records required by the division.
- 3 (5) A determination by the division that the applicant previously
 4 operated a:
- 5 (A) child care center without a license under this chapter; or
 6 (B) child care home without a license under IC 12-17.2-5.
- 7 (b) Notwithstanding subsection (a)(2), if:
- 8 (1) a license application is denied due to a criminal conviction of
 9 an employee or a volunteer of the applicant; and
 10 (2) the division determines that the employee or volunteer has
 11 been dismissed by the applicant;
 12 the criminal conviction of the former employee or former volunteer
 13 does not require denial of a license application.
- 14 SECTION 11. IC 12-17.2-4-32, AS AMENDED BY P.L.146-2006,
 15 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 16 JULY 1, 2013]: Sec. 32. (a) The following constitute sufficient grounds
 17 for revocation of a license:
- 18 (1) A determination by the department of child services of child
 19 abuse or neglect (as defined in IC 31-9-2-14) by:
- 20 (A) the licensee;
 21 (B) an employee of the licensee who has direct contact, on a
 22 regular and continuous basis, with children who are under the
 23 direct supervision of the licensee; or
 24 (C) a volunteer of the licensee who has direct contact, on a
 25 regular and continuous basis, with children who are under the
 26 direct supervision of the licensee.
- 27 (2) A criminal conviction of the licensee, an employee of the
 28 licensee who has direct contact ~~on a regular and continuous basis;~~
 29 with children who are ~~under the direct supervision of~~ **receiving**
 30 **child care from** the licensee, or a volunteer of the licensee who
 31 has direct contact ~~on a regular and continuous basis;~~ with children
 32 who are ~~under the direct supervision of~~ **receiving child care**
 33 **from** the licensee, of any of the following:
- 34 (A) A felony:
- 35 (i) **related to the health or safety of a child;**
 36 (ii) **that is a sex offense (as defined in IC 11-8-8-5.2);**
 37 (iii) **that is a dangerous felony; or**
 38 (iv) **that is not a felony otherwise described in items (i)**
 39 **through (iii), and less than ten (10) years have elapsed**
 40 **from the date the person was discharged from probation,**
 41 **imprisonment, or parole, whichever discharge date is**
 42 **latest.**

C
 o
 p
 y



- 1 (B) A misdemeanor related to the health or safety of a child.
 2 (C) A misdemeanor for operating a child care center without
 3 a license under section 35 of this chapter, **or a substantially**
 4 **similar offense in another jurisdiction if the offense is**
 5 **directly or indirectly related to jeopardizing the health or**
 6 **safety of a child.**
 7 (D) A misdemeanor for operating a child care home without a
 8 license under IC 12-17.2-5-35, **or a substantially similar**
 9 **offense in another jurisdiction if the offense is directly or**
 10 **indirectly related to jeopardizing the health or safety of a**
 11 **child.**
 12 (3) A determination by the division that the licensee made false
 13 statements in the licensee's application for licensure.
 14 (4) A determination by the division that the licensee made false
 15 statements in the records required by the division.
 16 (5) A determination by the division that the licensee previously
 17 operated a:
 18 (A) child care center without a license under this chapter; or
 19 (B) child care home without a license under IC 12-17.2-5.
 20 (b) Notwithstanding subsection (a)(2), if:
 21 (1) a license is revoked due to a criminal conviction of an
 22 employee or a volunteer of the licensee; and
 23 (2) the division determines that the employee or volunteer has
 24 been dismissed by the licensee;
 25 the criminal conviction of the former employee or former volunteer
 26 does not require revocation of a license.
 27 SECTION 12. IC 12-17.2-5-3, AS AMENDED BY P.L.145-2006,
 28 SECTION 100, IS AMENDED TO READ AS FOLLOWS
 29 [EFFECTIVE JULY 1, 2013]: Sec. 3. (a) An applicant must apply for
 30 a child care home license on forms provided by the division.
 31 (b) An applicant must submit the required information as part of the
 32 application.
 33 (c) An applicant must submit with the application a statement
 34 attesting that the applicant has not been:
 35 (1) convicted of:
 36 (A) a felony:
 37 (i) **related to the health or safety of a child;**
 38 (ii) **that is a sex offense (as defined in IC 11-8-8-5.2);**
 39 (iii) **that is a dangerous felony; or**
 40 (iv) **that is not a felony otherwise described in items (i)**
 41 **through (iii), and less than ten (10) years have elapsed**
 42 **from the date the person was discharged from probation,**

C
O
P
Y



- 1 **imprisonment, or parole, whichever discharge date is**
- 2 **latest;**
- 3 (B) a misdemeanor relating to the health or safety of children;
- 4 (C) a misdemeanor for operating a child care center without a
- 5 license under IC 12-17.2-4-35, **or of a substantially similar**
- 6 **offense committed in another jurisdiction if the offense is**
- 7 **directly or indirectly related to jeopardizing the health or**
- 8 **safety of a child; or**
- 9 (D) a misdemeanor for operating a child care home without a
- 10 license under section 35 of this chapter, **or of a substantially**
- 11 **similar offense committed in another jurisdiction if the**
- 12 **offense is directly or indirectly related to jeopardizing the**
- 13 **health or safety of a child; and**
- 14 (2) charged with:
- 15 (A) a felony;
- 16 (B) a misdemeanor relating to the health or safety of children;
- 17 (C) a misdemeanor for operating a child care center without a
- 18 license under IC 12-17.2-4-35, **or with a substantially**
- 19 **similar offense in another jurisdiction if the offense is**
- 20 **directly or indirectly related to jeopardizing the health or**
- 21 **safety of a child; or**
- 22 (D) a misdemeanor for operating a child care home without a
- 23 license under section 35 of this chapter, **or with a**
- 24 **substantially similar offense in another jurisdiction if the**
- 25 **offense is directly or indirectly related to jeopardizing the**
- 26 **health or safety of a child;**
- 27 during the pendency of the application.
- 28 (d) An applicant must submit:
- 29 (1) the necessary information, forms, or consents; ~~for the division~~
- 30 ~~to; and~~
- 31 (+) **conduct (2) the fingerprints of the applicant and the**
- 32 **applicant's spouse;**
- 33 **for a national criminal history background check on the applicant's**
- 34 **spouse; and**
- 35 (2) obtain a national criminal history background check on the
- 36 applicant. ~~through the state police department under~~
- 37 ~~IC 10-13-3-39; by Federal Bureau of Investigation.~~
- 38 (e) **Subject to section 3.3 of this chapter, an applicant must do the**
- 39 ~~following; shall require:~~
- 40 (+) ~~Conduct a criminal history check of the applicant's:~~
- 41 (A) employees;
- 42 (B) volunteers; and

COPY



- 1 (☺) household members who are:
- 2 (i) at least eighteen (18) years of age; or
- 3 (ii) less than eighteen (18) years of age but have previously
- 4 been waived from juvenile court to adult court;
- 5 (2) Maintain records of each criminal history check:
- 6 (1) an employee or a volunteer of the applicant who has direct
- 7 contact with a child who is receiving child care from the
- 8 applicant; and
- 9 (2) the applicant's household members who are:
- 10 (A) at least eighteen (18) years of age; or
- 11 (B) less than eighteen (18) years of age but have previously
- 12 been waived from juvenile court to adult court;
- 13 to submit fingerprints for a national criminal history background
- 14 check by the Federal Bureau of Investigation. An applicant shall
- 15 require an individual described in subdivision (1) to apply for a
- 16 national criminal history background check before the individual
- 17 is employed or allowed to volunteer and every three (3) years
- 18 thereafter that the individual is continuously employed or allowed
- 19 to volunteer.
- 20 (f) In addition to the requirements under subsections (d) and (e),
- 21 an applicant must report to the division any:
- 22 (A) police investigations;
- 23 (B) arrests; and
- 24 (C) criminal convictions;
- 25 of which the applicant is aware regarding the applicant, the
- 26 applicant's spouse, or a person described in subsection (e).
- 27 SECTION 13. IC 12-17.2-5-3.3 IS ADDED TO THE INDIANA
- 28 CODE AS A NEW SECTION TO READ AS FOLLOWS
- 29 [EFFECTIVE JULY 1, 2013]: **Sec. 3.3. A person that holds a license**
- 30 **under this chapter on July 1, 2013, shall, at no expense to the state,**
- 31 **meet the requirements under section 3(e) of this chapter not later**
- 32 **than July 1, 2014.**
- 33 SECTION 14. IC 12-17.2-5-4, AS AMENDED BY P.L.124-2007,
- 34 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 35 JULY 1, 2013]: Sec. 4. (a) The following constitute sufficient grounds
- 36 for a denial of a license application:
- 37 (1) A determination by the department of child services
- 38 established by IC 31-25-1-1 of child abuse or neglect (as defined
- 39 in IC 31-9-2-14) by:
- 40 (A) the applicant;
- 41 (B) a member of the applicant's household;
- 42 (C) an employee of the applicant who has direct contact, on a

COPY



- 1 regular and continuous basis, with children who are under the
- 2 direct supervision of the applicant; or
- 3 (D) a volunteer of the applicant who has direct contact, on a
- 4 regular and continuous basis, with children who are ~~under the~~
- 5 direct supervision of the applicant.
- 6 (2) A criminal conviction of the applicant, an employee of the
- 7 applicant who has direct contact ~~on a regular and continuous~~
- 8 ~~basis~~, with children who are ~~under the direct supervision of~~
- 9 **receiving child care from** the applicant, a volunteer of the
- 10 applicant who has direct contact ~~on a regular and continuous~~
- 11 ~~basis~~, with children who are ~~under the direct supervision of~~
- 12 **receiving child care from** the applicant, or a member of the
- 13 applicant's household, of any of the following:
- 14 (A) A felony:
- 15 (i) **related to the health or safety of a child;**
- 16 (ii) **that is a sex offense (as defined in IC 11-8-8-5.2);**
- 17 (iii) **that is a dangerous felony; or**
- 18 (iv) **that is not a felony otherwise described in items (i)**
- 19 **through (iii), and less than ten (10) years have elapsed**
- 20 **from the date the person was discharged from probation,**
- 21 **imprisonment, or parole, whichever discharge date is**
- 22 **latest.**
- 23 (B) A misdemeanor related to the health or safety of a child.
- 24 (C) A misdemeanor for operating a child care center without
- 25 a license under IC 12-17.2-4-35, **or a substantially similar**
- 26 **offense committed in another jurisdiction if the offense is**
- 27 **directly or indirectly related to jeopardizing the health or**
- 28 **safety of a child.**
- 29 (D) A misdemeanor for operating a child care home without a
- 30 license under section 35 of this chapter, **or a substantially**
- 31 **similar offense committed in another jurisdiction if the**
- 32 **offense is directly or indirectly related to jeopardizing the**
- 33 **health or safety of a child.**
- 34 (3) A determination by the division that the applicant made false
- 35 statements in the applicant's application for licensure.
- 36 (4) A determination by the division that the applicant made false
- 37 statements in the records required by the division.
- 38 (5) A determination by the division that the applicant previously
- 39 operated a:
- 40 (A) child care center without a license under IC 12-17.2-4; or
- 41 (B) child care home without a license under this chapter.
- 42 (b) Notwithstanding subsection (a)(2), if:

COPY



- 1 (1) a license application is denied due to a criminal conviction of:
- 2 (A) an employee or a volunteer of the applicant; or
- 3 (B) a member of the applicant's household; and
- 4 (2) the division determines that the:
- 5 (A) employee or volunteer has been dismissed by the
- 6 applicant; or
- 7 (B) member of the applicant's household is no longer a
- 8 member of the applicant's household;
- 9 the criminal conviction of the former employee, former volunteer, or
- 10 former member does not require denial of a license application.

11 SECTION 15. IC 12-17.2-5-32, AS AMENDED BY P.L.124-2007,
 12 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 13 JULY 1, 2013]: Sec. 32. (a) The following constitute sufficient grounds
 14 for revocation of a license:

- 15 (1) A determination by the department of child services of child
- 16 abuse or neglect (as defined in IC 31-9-2-14) by:
- 17 (A) the licensee;
- 18 (B) a member of the licensee's household;
- 19 (C) an employee of the licensee who has direct contact, on a
- 20 regular and continuous basis, with children who are under the
- 21 direct supervision of the licensee; or
- 22 (D) a volunteer of the licensee who has direct contact, on a
- 23 regular and continuous basis, with children who are under the
- 24 direct supervision of the licensee.
- 25 (2) A criminal conviction of the licensee, an employee of the
- 26 licensee who has direct contact ~~on a regular and continuous basis,~~
- 27 ~~with children who are under the direct supervision of~~ **receiving**
- 28 **child care from** the licensee, a volunteer of the licensee who has
- 29 direct contact ~~on a regular and continuous basis,~~ with children
- 30 who are ~~under the direct supervision of~~ **receiving child care**
- 31 **from** the licensee, or a member of the licensee's household, of any
- 32 of the following:
- 33 (A) A felony:
- 34 (i) **related to the health or safety of a child;**
- 35 (ii) **that is a sex offense (as defined in IC 11-8-8-5.2);**
- 36 (iii) **that is a dangerous felony; or**
- 37 (iv) **that is not a felony otherwise described in items (i)**
- 38 **through (iii), and less than ten (10) years have elapsed**
- 39 **from the date the person was discharged from probation,**
- 40 **imprisonment, or parole, whichever discharge date is**
- 41 **latest.**
- 42 (B) A misdemeanor related to the health or safety of a child.

COPY



- 1 (C) A misdemeanor for operating a child care center without
- 2 a license under IC 12-17.2-4-35, **or a substantially similar**
- 3 **offense committed in another jurisdiction if the offense is**
- 4 **directly or indirectly related to jeopardizing the health or**
- 5 **safety of a child.**
- 6 (D) A misdemeanor for operating a child care home without a
- 7 license under section 35 of this chapter, **or a substantially**
- 8 **similar offense committed in another jurisdiction if the**
- 9 **offense is directly or indirectly related to jeopardizing the**
- 10 **health or safety of a child.**
- 11 (3) A determination by the division that the licensee made false
- 12 statements in the licensee's application for licensure.
- 13 (4) A determination by the division that the licensee made false
- 14 statements in the records required by the division.
- 15 (5) A determination by the division that the licensee previously
- 16 operated a:
 - 17 (A) child care center without a license under IC 12-17.2-4; or
 - 18 (B) child care home without a license under this chapter.
- 19 (b) Notwithstanding subsection (a)(2), if:
 - 20 (1) a license is revoked due to a criminal conviction of:
 - 21 (A) an employee or a volunteer of the licensee's; or
 - 22 (B) a resident of the licensee's household; and
 - 23 (2) the division determines that the:
 - 24 (A) employee or volunteer has been dismissed by the licensee;
 - 25 or
 - 26 (B) member of the licensee's household is no longer a member
 - 27 of the licensee's household;
- 28 the criminal conviction of the former employee, former volunteer, or
- 29 former member does not require revocation of a license.
- 30 SECTION 16. IC 12-17.2-6-14, AS AMENDED BY P.L.124-2007,
- 31 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 32 JULY 1, 2013]: Sec. 14. (a) The child care ministry must do the
- 33 following:
 - 34 (1) ~~Conduct~~ **Subject to subsection (c), require, at no expense to**
 - 35 **the state, an employee or a volunteer who has direct contact**
 - 36 **with a child who is receiving child care from the child care**
 - 37 **ministry to submit fingerprints for a national criminal history**
 - 38 **background check of the child care ministry's employees and**
 - 39 **volunteers: by the Federal Bureau of Investigation.**
 - 40 (2) **Report to the division any:**
 - 41 (A) **police investigations;**
 - 42 (B) **arrests; and**

C
O
P
Y



1 **(C) criminal convictions;**
 2 **of which the operator or director of the child care ministry is**
 3 **aware regarding an employee or volunteer described in**
 4 **subdivision (1).**

5 **(2) (3) Refrain from employing, or allowing to serve as a**
 6 **volunteer, an individual who has direct contact with a child who**
 7 **is receiving child care from the child care ministry and who:**

8 **(A) has been convicted of any of the following felonies:**

- 9 **(i) Murder (IC 35-42-1-1);**
 10 **(ii) Causing suicide (IC 35-42-1-2);**
 11 **(iii) Assisting suicide (IC 35-42-1-2.5);**
 12 **(iv) Voluntary manslaughter (IC 35-42-1-3);**
 13 **(v) Reckless homicide (IC 35-42-1-5);**
 14 **(vi) Battery (IC 35-42-2-1);**
 15 **(vii) Aggravated battery (IC 35-42-2-1.5);**
 16 **(viii) Kidnapping (IC 35-42-3-2);**
 17 **(ix) Criminal confinement (IC 35-42-3-3);**
 18 **(x) A felony sex offense under IC 35-42-4;**
 19 **(xi) Carjacking (IC 35-42-5-2);**
 20 **(xii) Arson (IC 35-43-1-1);**
 21 **(xiii) Incest (IC 35-46-1-3);**
 22 **(xiv) Neglect of a dependent (IC 35-46-1-4(a)(1) and**
 23 **IC 35-46-1-4(a)(2));**
 24 **(xv) Child selling (IC 35-46-1-4(d));**
 25 **(xvi) A felony involving a weapon under IC 35-47 or**
 26 **IC 35-47.5;**
 27 **(xvii) A felony relating to controlled substances under**
 28 **IC 35-48-4;**
 29 **(xviii) An offense relating to material or a performance that**
 30 **is harmful to minors or obscene under IC 35-49-3;**
 31 **(xix) A felony that is substantially equivalent to a felony**
 32 **listed in items (i) through (xviii) for which the conviction**
 33 **was entered in another state: a felony:**
 34 **(i) related to the health or safety of a child;**
 35 **(ii) that is a sex offense (as defined in IC 11-8-8-5.2);**
 36 **(iii) that is a dangerous felony; or**
 37 **(iv) that is not a felony otherwise described in items (i)**
 38 **through (iii), and less than ten (10) years have elapsed**
 39 **from the date the person was discharged from probation,**
 40 **imprisonment, or parole, whichever discharge date is**
 41 **latest;**

42 **(B) has been convicted of a misdemeanor related to the health**

C
O
P
Y



1 or safety of a child;
 2 **(C) has been convicted of a misdemeanor under**
 3 **IC 12-17.2-4-35 for operating a child care center without**
 4 **a license, or of a substantially similar offense committed in**
 5 **another jurisdiction if the offense is directly or indirectly**
 6 **related to jeopardizing the health or safety of a child;**
 7 **(D) has been convicted of a misdemeanor under**
 8 **IC 12-17.2-5-35 for operating a child care home without a**
 9 **license, or of a substantially similar offense committed in**
 10 **another jurisdiction if the offense is directly or indirectly**
 11 **related to jeopardizing the health or safety of a child; or**
 12 **(E) is a person against whom an allegation of child abuse**
 13 **or neglect has been substantiated under IC 31-33, or under a**
 14 **substantially similar provision in another jurisdiction.**
 15 ~~(3) Maintain records of each criminal history check.~~
 16 **(b) A child care ministry shall require an individual described**
 17 **in subsection (a)(1) to apply for a national criminal history**
 18 **background check before the individual is employed or allowed to**
 19 **volunteer and every three (3) years thereafter that the individual**
 20 **is continuously employed or allowed to volunteer.**
 21 **(c) A child care ministry that is registered under this chapter on**
 22 **July 1, 2013, shall, at no expense to the state, meet the**
 23 **requirements under subsection (a)(1) not later than July 1, 2014.**

COPY



COMMITTEE REPORT

Mr. Speaker: Your Committee on Family, Children and Human Affairs, to which was referred House Bill 1494, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 2, line 42, after "shall" delete ",".

Page 2, line 42, strike "at no expense to the state,".

Page 3, line 1, after "of" insert "**the response to**".

Page 3, line 23, strike "not listed on a".

Page 3, line 23, delete "national".

Page 3, line 23, strike "criminal history".

Page 3, line 23, delete "background check".

Page 3, line 24, strike "obtained under subsection (a)" and insert "**of which the provider is aware**".

Page 4, line 21, after "costs" insert "**(other than fees or costs charged by the Federal Bureau of Investigation or a private entity)**".

Page 5, line 14, after "of" insert "**the response to**".

Page 6, line 12, after "of" insert "**the response to**".

Page 7, line 13, after "of" insert "**the response to**".

and when so amended that said bill do pass.

(Reference is to HB 1494 as introduced.)

KUBACKI, Chair

Committee Vote: yeas 13, nays 0.

COMMITTEE REPORT

Madam President: The Senate Committee on Public Policy, to which was referred House Bill No. 1494, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

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

"SECTION 1. IC 12-7-2-53.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: **Sec. 53.2. "Dangerous felony", for purposes of IC 12-17.2, means one (1) or more of the following felonies:**

EH 1494—LS 6733/DI 97+



C
O
P
Y

- (1) Murder (IC 35-42-1-1).
- (2) Attempted murder (IC 35-41-5-1).
- (3) Voluntary manslaughter (IC 35-42-1-3).
- (4) Involuntary manslaughter (IC 35-42-1-4).
- (5) Reckless homicide (IC 35-42-1-5).
- (6) Aggravated battery (IC 35-42-2-1.5).
- (7) Kidnapping (IC 35-42-3-2).
- (8) Rape (IC 35-42-4-1).
- (9) Criminal deviate conduct (IC 35-42-4-2).
- (10) Child molesting (IC 35-42-4-3).
- (11) Sexual misconduct with a minor as a Class A felony under IC 35-42-4-9(a)(2) or a Class B felony under IC 35-42-4-9(b)(2).
- (12) Robbery as a Class A or Class B felony (IC 35-42-5-1).
- (13) Burglary as a Class A or Class B felony (IC 35-43-2-1).
- (14) A felony committed in another jurisdiction that is substantially similar to a felony in this section."

Page 2, line 13, strike "IC 12-17.2-2-3." and insert "**section 3 of this chapter.**".

Page 2, between lines 38 and 39, begin a new paragraph and insert:
 "SECTION 4. IC 12-17.2-3.5-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 4. A provider ~~who~~ **is ineligible to receive a voucher payment if the provider:**

- (1) has been convicted of a:
 - (A) felony:
 - (i) related to the health or safety of a child;
 - (ii) that is a sex offense (as defined in IC 11-8-8-5.2);
 - (iii) that is a dangerous felony; or
 - (iv) that is not a felony otherwise described in items (i) through (iii), and less than ten (10) years have elapsed from the date the person was discharged from probation, imprisonment, or parole, whichever discharge date is latest;
 - (B) misdemeanor related to the health or safety of a child;
 - (C) misdemeanor for operating a child care center without a license under IC 12-17.2-4-35, **or of a substantially similar offense committed in another jurisdiction, if the offense is directly or indirectly related to jeopardizing the health or safety of a child;** or
 - (D) misdemeanor for operating a child care home without a license under IC 12-17.2-5-35, **or of a substantially similar offense committed in another jurisdiction, if the offense is**



C
O
P
Y

directly or indirectly related to jeopardizing the health or safety of a child;

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

(A) ~~serve as a caregiver to a child in the provider's care; be employed or volunteer at the facility where the provider operates a child care program;~~ or

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

(3) fails to meet the requirements set forth in sections 5 through 12.1 of this chapter.

is ineligible to receive a voucher payment:

SECTION 5. IC 12-17.2-3.5-4.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 4.1. (a) This section applies to the following:

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

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

(3) An individual who:

(A) is employed; or

(B) volunteers;

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

(b) If information used by the division under IC 31-33-17-6(7) **(repealed)** indicates that an individual described in subsection (a) has been named as an alleged perpetrator, the following are ineligible to receive a voucher payment:

(1) The individual.

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

(3) A provider that:

(A) employs the individual; or

(B) allows the individual to volunteer;

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

Page 3, line 12, strike "as a caregiver".

Page 3, line 16, strike "as a" and insert ".".

Page 3, strike line 17.

Page 3, line 37, after "volunteer" insert ";".

Page 3, line 37, strike "as a caregiver;".

Page 3, line 40, delete ";" and insert "":

C
O
P
Y



- (i) related to the health or safety of a child;
- (ii) that is a sex offense (as defined in IC 11-8-8-5.2);
- (iii) that is a dangerous felony; or
- (iv) that is not a felony otherwise described in items (i) through (iii), and less than ten (10) years have elapsed from the date the person was discharged from probation, imprisonment, or parole, whichever discharge date is latest;"

Page 4, line 1, delete ";" and insert ", or of a substantially similar offense committed in another jurisdiction, if the offense is directly or indirectly related to jeopardizing the health or safety of a child;"

Page 4, line 3, delete "." and insert ", or of a substantially similar offense committed in another jurisdiction, if the offense is directly or indirectly related to jeopardizing the health or safety of a child."

Page 4, line 7, delete ";" and insert ":

- (A) related to the health or safety of a child;
- (B) that is a sex offense (as defined in IC 11-8-8-5.2);
- (C) that is a dangerous felony; or
- (D) that is not a felony otherwise described in clauses (A) through (C), and less than ten (10) years have elapsed from the date the person was discharged from probation, imprisonment, or parole, whichever discharge date is latest;"

Page 4, line 10, delete ";" and insert ", or of a substantially similar offense committed in another jurisdiction, if the offense is directly or indirectly related to jeopardizing the health or safety of a child;"

Page 4, line 12, delete ";" and insert ", or of a substantially similar offense committed in another jurisdiction, if the offense is directly or indirectly related to jeopardizing the health or safety of a child;"

Page 4, line 35, delete ":" and insert ", during the pendency of the application:"

Page 4, line 37, delete ";" and insert ":

- (i) related to the health or safety of a child;
- (ii) that is a sex offense (as defined in IC 11-8-8-5.2);
- (iii) that is a dangerous felony; or
- (iv) that is not a felony otherwise described in items (i) through (iii), and less than ten (10) years have elapsed from the date the person was discharged from probation,



C
o
p
y

imprisonment, or parole, whichever discharge date is latest;".

Page 4, line 40, delete ";" and insert "**, or of a substantially similar offense committed in another jurisdiction, if the offense is directly or indirectly related to jeopardizing the health or safety of a child;"**".

Page 4, line 42, delete ";" and insert "**, or of a substantially similar offense committed in another jurisdiction, if the offense is directly or indirectly related to jeopardizing the health or safety of a child;"**".

Page 5, line 5, delete ";" and insert "**, or with a substantially similar offense in another jurisdiction, if the offense is directly or indirectly related to jeopardizing the health or safety of a child;"**".

Page 5, line 7, delete ";" and insert "**, or with a substantially similar offense in another jurisdiction, if the offense is directly or indirectly related to jeopardizing the health or safety of a child."**".

Page 5, strike line 8.

Page 5, line 16, after "each" insert "**national**".

Page 5, line 16, after "history" insert "**background**".

Page 5, between lines 17 and 18, begin a new paragraph and insert:
"SECTION 8. IC 12-17.2-4-5, AS AMENDED BY P.L.146-2006, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 5. (a) The following constitute sufficient grounds for a denial of a license application:

- (1) A determination by the department of child services established by IC 31-25-1-1 of child abuse or neglect (as defined in IC 31-9-2-14) by:
 - (A) the applicant;
 - (B) an employee of the applicant who has direct contact, on a regular and continuous basis, with children who are under the direct supervision of the applicant; or
 - (C) a volunteer of the applicant who has direct contact, on a regular and continuous basis, with children who are under the direct supervision of the applicant.
- (2) A criminal conviction of the applicant, an employee 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 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, of any of the following:
 - (A) A felony:
 - (i) related to the health or safety of a child;**

C
o
p
y



**(ii) that is a sex offense (as defined in IC 11-8-8-5.2);
 (iii) that is a dangerous felony; or
 (iv) that is not a felony otherwise described in items (i) through (iii), and less than ten (10) years have elapsed from the date the person was discharged from probation, imprisonment, or parole, whichever discharge date is latest.**

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

(C) A misdemeanor for operating a child care center without a license under section 35 of this chapter **or a substantially similar offense in another jurisdiction, if the offense is directly or indirectly related to jeopardizing the health or safety of a child.**

(D) A misdemeanor for operating a child care home without a license under IC 12-17.2-5-35 **or a substantially similar offense in another jurisdiction, if the offense is directly or indirectly related to jeopardizing the health or safety of a child.**

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

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

(5) A determination by the division that the applicant previously operated a:

(A) child care center without a license under this chapter; or

(B) child care home without a license under IC 12-17.2-5.

(b) Notwithstanding subsection (a)(2), if:

(1) a license application is denied due to a criminal conviction of an employee or a volunteer of the applicant; and

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

the criminal conviction of the former employee or former volunteer does not require denial of a license application.

SECTION 9. IC 12-17.2-4-32, AS AMENDED BY P.L.146-2006, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 32. (a) The following constitute sufficient grounds for revocation of a license:

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

(A) the licensee;

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

C
O
P
Y



direct supervision of the licensee; or

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

(2) A criminal conviction of the licensee, an employee of the licensee who has direct contact, on a regular and continuous basis, with children who are under the direct supervision of the licensee, or a volunteer of the licensee who has direct contact, on a regular and continuous basis, with children who are under the direct supervision of the licensee, of any of the following:

(A) A felony:

(i) related to the health or safety of a child;

(ii) that is a sex offense (as defined in IC 11-8-8-5.2);

(iii) that is a dangerous felony; or

(iv) that is not a felony otherwise described in items (i) through (iii), and less than ten (10) years have elapsed from the date the person was discharged from probation, imprisonment, or parole, whichever discharge date is latest.

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

(C) A misdemeanor for operating a child care center without a license under section 35 of this chapter **or a substantially similar offense in another jurisdiction, if the offense is directly or indirectly related to jeopardizing the health or safety of a child.**

(D) A misdemeanor for operating a child care home without a license under IC 12-17.2-5-35 **or a substantially similar offense in another jurisdiction, if the offense is directly or indirectly related to jeopardizing the health or safety of a child.**

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

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

(5) A determination by the division that the licensee previously operated a:

(A) child care center without a license under this chapter; or

(B) child care home without a license under IC 12-17.2-5.

(b) Notwithstanding subsection (a)(2), if:

(1) a license is revoked due to a criminal conviction of an employee or a volunteer of the licensee; and

(2) the division determines that the employee or volunteer has

C
O
P
Y



been dismissed by the licensee;
the criminal conviction of the former employee or former volunteer
does not require revocation of a license."

Page 5, line 25, after "applicant" insert ", **during the pendency of the application,**".

Page 5, line 27, delete ";" and insert ":

- (i) related to the health or safety of a child;**
- (ii) that is a sex offense (as defined in IC 11-8-8-5.2);**
- (iii) that is a dangerous felony; or**
- (iv) that is not a felony otherwise described in items (i) through (iii), and less than ten (10) years have elapsed from the date the person was discharged from probation, imprisonment, or parole, whichever discharge date is latest;".**

Page 5, line 30, delete ";" and insert ", **or of a substantially similar offense committed in another jurisdiction, if the offense is directly or indirectly related to jeopardizing the health or safety of a child;**".

Page 5, line 32, delete ";" and insert ", **or of a substantially similar offense committed in another jurisdiction, if the offense is directly or indirectly related to jeopardizing the health or safety of a child;**".

Page 5, line 37, delete ";" and insert ", **or with a substantially similar offense in another jurisdiction, if the offense is directly or indirectly related to jeopardizing the health or safety of a child;**".

Page 5, line 39, delete ";" and insert ", **or with a substantially similar offense in another jurisdiction, if the offense is directly or indirectly related to jeopardizing the health or safety of a child.**".

Page 5, strike line 40.

Page 6, line 15, after "each" insert "**national**".

Page 6, line 15, after "history" insert "**background**".

Page 6, between lines 16 and 17, begin a new paragraph and insert:
"SECTION 11. IC 12-17.2-5-4, AS AMENDED BY P.L.124-2007, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 4. (a) The following constitute sufficient grounds for a denial of a license application:

- (1) A determination by the department of child services established by IC 31-25-1-1 of child abuse or neglect (as defined in IC 31-9-2-14) by:
 - (A) the applicant;
 - (B) a member of the applicant's household;
 - (C) an employee of the applicant who has direct contact, on a



C
O
P
Y

regular and continuous basis, with children who are under the direct supervision of the applicant; or

(D) 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, an employee of the applicant who has direct contact, on a regular and continuous basis, with children who are under the direct supervision of the applicant, 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 a member of the applicant's household, of any of the following:

(A) A felony:

(i) related to the health or safety of a child;

(ii) that is a sex offense (as defined in IC 11-8-8-5.2);

(iii) that is a dangerous felony; or

(iv) that is not a felony otherwise described in items (i) through (iii), and less than ten (10) years have elapsed from the date the person was discharged from probation, imprisonment, or parole, whichever discharge date is latest.

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

(C) A misdemeanor for operating a child care center without a license under IC 12-17.2-4-35, **or a substantially similar offense committed in another jurisdiction, if the offense is directly or indirectly related to jeopardizing the health or safety of a child.**

(D) A misdemeanor for operating a child care home without a license under section 35 of this chapter, **or a substantially similar offense committed in another jurisdiction, if the offense is directly or indirectly related to jeopardizing the health or safety of a child.**

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

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

(5) A determination by the division that the applicant previously operated a:

(A) child care center without a license under IC 12-17.2-4; or

(B) child care home without a license under this chapter.

(b) Notwithstanding subsection (a)(2), if:

(1) a license application is denied due to a criminal conviction of:

C
o
p
y



- (A) an employee or a volunteer of the applicant; or
- (B) a member of the applicant's household; and
- (2) the division determines that the:
 - (A) employee or volunteer has been dismissed by the applicant; or
 - (B) member of the applicant's household is no longer a member of the applicant's household;

the criminal conviction of the former employee, former volunteer, or former member does not require denial of a license application.

SECTION 12. IC 12-17.2-5-32, AS AMENDED BY P.L.124-2007, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 32. (a) The following constitute sufficient grounds for revocation of a license:

- (1) A determination by the department of child services of child abuse or neglect (as defined in IC 31-9-2-14) by:
 - (A) the licensee;
 - (B) a member of the licensee's household;
 - (C) an employee of the licensee who has direct contact, on a regular and continuous basis, with children who are under the direct supervision of the licensee; or
 - (D) a volunteer of the licensee who has direct contact, on a regular and continuous basis, with children who are under the direct supervision of the licensee.

(2) A criminal conviction of the licensee, an employee of the licensee who has direct contact, on a regular and continuous basis, with children who are under the direct supervision of the licensee, a volunteer of the licensee who has direct contact, on a regular and continuous basis, with children who are under the direct supervision of the licensee, or a member of the licensee's household, of any of the following:

- (A) A felony:
 - (i) **related to the health or safety of a child;**
 - (ii) **that is a sex offense (as defined in IC 11-8-8-5.2);**
 - (iii) **that is a dangerous felony; or**
 - (iv) **that is not a felony otherwise described in items (i) through (iii), and less than ten (10) years have elapsed from the date the person was discharged from probation, imprisonment, or parole, whichever discharge date is latest.**
- (B) A misdemeanor related to the health or safety of a child.
- (C) A misdemeanor for operating a child care center without a license under IC 12-17.2-4-35, **or a substantially similar**

C
O
P
Y



offense committed in another jurisdiction, if the offense is directly or indirectly related to jeopardizing the health or safety of a child.

(D) A misdemeanor for operating a child care home without a license under section 35 of this chapter, **or a substantially similar offense committed in another jurisdiction, if the offense is directly or indirectly related to jeopardizing the health or safety of a child.**

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

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

(5) A determination by the division that the licensee previously operated a:

(A) child care center without a license under IC 12-17.2-4; or

(B) child care home without a license under this chapter.

(b) Notwithstanding subsection (a)(2), if:

(1) a license is revoked due to a criminal conviction of:

(A) an employee or a volunteer of the licensee's; or

(B) a resident of the licensee's household; and

(2) the division determines that the:

(A) employee or volunteer has been dismissed by the licensee; or

(B) member of the licensee's household is no longer a member of the licensee's household;

the criminal conviction of the former employee, former volunteer, or former member does not require revocation of a license."

Page 7, line 7, delete ";" and insert ":

(i) related to the health or safety of a child;

(ii) that is a sex offense (as defined in IC 11-8-8-5.2);

(iii) that is a dangerous felony; or

(iv) that is not a felony otherwise described in items (i) through (iii), and less than ten (10) years have elapsed from the date the person was discharged from probation, imprisonment, or parole, whichever discharge date is latest;".

Page 7, delete lines 10 through 13, begin a new line double block indented and insert:

"(C) has been convicted of a misdemeanor under IC 12-17.2-4-35 for operating a child care center without a license, or of a substantially similar offense committed in another jurisdiction, if the offense is directly or indirectly

C
o
p
y



**related to jeopardizing the health or safety of a child;
(D) has been convicted of a misdemeanor under
IC 12-17.2-5-35 for operating a child care home without a
license, or of a substantially similar offense committed in
another jurisdiction, if the offense is directly or indirectly
related to jeopardizing the health or safety of a child;"**

Page 7, line 16, delete "." and insert ", **or under a substantially
similar provision in another jurisdiction.**"

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1494 as printed February 15, 2013.)

ALTING, Chairperson

Committee Vote: Yeas 10, Nays 0.

SENATE MOTION

Madam President: I move that Engrossed House Bill 1494 be amended to read as follows:

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

"SECTION 1. IC 10-13-3-28, AS AMENDED BY P.L.127-2011, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 28. On request of an individual who has applied for employment **or to volunteer** with a noncriminal justice organization or individual, the Indiana central repository for criminal history information shall process a request for a national fingerprint based criminal history check of the individual making the request from the Federal Bureau of Investigation's National Crime Information Center upon:

- (1) the submission of fingerprints of the individual making the request; and
- (2) the payment of a fifteen dollar (\$15) fee."

Page 2, between lines 2 and 3, begin a new line block indented and insert:

- "(14) Battery as a felony (IC 35-42-2-1).**
- (15) Domestic battery (IC 35-42-2-1.3).**
- (16) Strangulation (IC 35-42-2-9).**
- (17) Criminal confinement (IC 35-42-3-3).**
- (18) Sexual battery (IC 35-42-4-8)."**

EH 1494—LS 6733/DI 97+



C
o
p
y

Page 2, line 3, delete "(14)" and insert "(19)".

Page 2, delete lines 5 through 10, begin a new line block indented and insert:

"(20) An attempt to commit or a conspiracy to commit an offense listed in subdivisions (1) through (19).

SECTION 3. IC 12-7-2-131.8 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: **Sec. 131.8. "National criminal history background check", for purposes of IC 12-17.2, has the meaning set forth in IC 10-13-3-12."**

Page 2, line 18, strike "applicant" and insert **"following"**.

Page 2, line 18, reset in roman "through the state police department".

Page 2, line 19, reset in roman "under IC 10-13-3-39".

Page 2, line 19, delete "license." and insert "license:

(A) An applicant for a license.

(B) An employee or volunteer of an applicant who has direct contact with a child who is receiving child care from the applicant.

(C) If an applicant is applying for a license to operate a child care home, the following:

(i) The applicant's spouse.

(ii) The applicant's household members who are at least eighteen (18) years of age or who are less than eighteen (18) years of age but have previously been waived from juvenile court to adult court."

Page 2, line 21, strike "a child care ministry applicant for registration" and insert **"the following"**.

Page 2, line 21, after "completed" insert **"through the state police department under IC 10-13-3-39"**.

Page 2, line 22, strike "the" and insert **"a"**.

Page 2, line 22, delete "ministry." and insert "ministry:

(A) An applicant for a child care ministry registration.

(B) An employee or volunteer of an applicant who has direct contact with a child who is receiving child care from the applicant."

Page 3, delete lines 18 through 42, begin a new paragraph and insert:

"SECTION 5. IC 12-17.2-2-14 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: **Sec. 14. (a) The state police department shall release the results of a national criminal history**



C
O
P
Y

background check conducted in accordance with this article to the division.

(b) The division may not release records received from the state police department under subsection (a).

SECTION 6. IC 12-17.2-3.5-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 4. A provider ~~who~~ **is ineligible to receive a voucher payment if the provider:**

(1) has been convicted of a:

(A) felony:

(i) related to the health or safety of a child;

(ii) that is a sex offense (as defined in IC 11-8-8-5.2);

(iii) that is a dangerous felony; or

(iv) that is not a felony otherwise described in items (i) through (iii), and less than ten (10) years have elapsed from the date the person was discharged from probation, imprisonment, or parole, whichever discharge date is latest;

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

(C) misdemeanor for operating a child care center without a license under IC 12-17.2-4-35, **or of a substantially similar offense committed in another jurisdiction if the offense is directly or indirectly related to jeopardizing the health or safety of a child;** or

(D) misdemeanor for operating a child care home without a license under IC 12-17.2-5-35, **or of a substantially similar offense committed in another jurisdiction if the offense is directly or indirectly related to jeopardizing the health or safety of a child;**

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

~~(A) serve as a caregiver to a child in the provider's care; or~~

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

(3) employs an individual or allows an individual to volunteer who:

(A) has direct contact with a child who is receiving child care from the provider; and

(B) has been convicted of a crime specified in subdivision (1); or

~~(3)~~ **(4) fails to meet the requirements set forth in sections 5 through 12.1 of this chapter.**

is ineligible to receive a voucher payment.

C
O
P
Y



SECTION 7. IC 12-17.2-3.5-12, AS AMENDED BY P.L.142-2006, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 12. (a) Except as provided in subsection (f) **and subject to subsection (g)**, a provider shall, at no expense to the state, ~~maintain and make available to the division upon request a copy of a limited criminal history for:~~ **do the following:**

(1) ~~the provider,~~ If the provider is an individual, **submit the provider's fingerprints for a national criminal history background check by the Federal Bureau of Investigation.**

(2) If the provider operates a child care program in the provider's home, **require:**

(A) the provider's spouse; and

(B) any individual who resides with the provider and who is:

~~(A)~~ **(i) at least eighteen (18) years of age; or**

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

to submit fingerprints for a national criminal history background check by the Federal Bureau of Investigation.

(3) **Require** any individual who:

(A) is employed or

~~(B)~~ **volunteers; and**

(B) has direct contact with a child who is receiving child care from the provider;

as a caregiver at the facility where the provider operates a child care program to submit fingerprints for a national criminal history background check by the Federal Bureau of Investigation.

A provider shall **require an individual described in subdivision (3) to apply submit fingerprints** for a ~~limited national criminal history for an individual described in subdivision (3)~~ **background check** before the individual is employed or allowed to volunteer as a caregiver. **and every three (3) years thereafter that the individual is continuously employed or allowed to volunteer.**

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

(1) police investigations;

(2) arrests; and

(3) criminal convictions;

not listed on a limited criminal history obtained under subsection (a) of which the provider is aware regarding any of the persons listed in subsection (a).

C
O
P
Y



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

(1) the provider:

(A) has:

(i) applied for the limited submitted; or

(ii) required an individual described in subsection (a)(2) or (a)(3) to submit;

fingerprints for a national criminal history background check as required under subsection (a); and

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

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

(A) felony:

(i) related to the health or safety of a child;

(ii) that is a sex offense (as defined in IC 11-8-8-5.2);

(iii) that is a dangerous felony; or

(iv) that is not a felony otherwise described in items (i) through (iii), and less than ten (10) years have elapsed from the date the person was discharged from probation, imprisonment, or parole, whichever discharge date is latest;

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

(C) misdemeanor for operating a child care center without a license under IC 12-17.2-4-35, **or of a substantially similar offense committed in another jurisdiction if the offense is directly or indirectly related to jeopardizing the health or safety of a child;** or

(D) misdemeanor for operating a child care home without a license under IC 12-17.2-5-35, **or of a substantially similar offense committed in another jurisdiction if the offense is directly or indirectly related to jeopardizing the health or safety of a child.**

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

(1) felony:

C
O
P
Y



- (A) related to the health or safety of a child;
- (B) that is a sex offense (as defined in IC 11-8-8-5.2);
- (C) that is a dangerous felony; or
- (D) that is not a felony otherwise described in clauses (A) through (C), and less than ten (10) years have elapsed from the date the person was discharged from probation, imprisonment, or parole, whichever discharge date is latest;

- (2) misdemeanor related to the health or safety of a child;
- (3) misdemeanor for operating a child care center without a license under IC 12-17.2-4-35, or of a substantially similar offense committed in another jurisdiction, if the offense is directly or indirectly related to jeopardizing the health or safety of a child; or
- (4) misdemeanor for operating a child care home without a license under IC 12-17.2-5-35, or of a substantially similar offense committed in another jurisdiction, if the offense is directly or indirectly related to jeopardizing the health or safety of a child;

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

(e) A provider shall maintain a written policy requiring an individual for whom a **limited national criminal history background check** is required under this section to report any criminal convictions of the individual to the provider.

(f) **Notwithstanding IC 10-13-3-28**, the state police department may not charge a church or religious society any fees or costs (**other than fees or costs charged by the Federal Bureau of Investigation or a private entity**) for responding to a request for a release of a **limited national criminal history background check** record of a prospective or current employee or a prospective or current volunteer of a child care ministry registered under IC 12-17.2-6 if the conditions set forth in IC 10-13-3-36(f) are met.

(g) **A provider that holds a license or registration under this article on July 1, 2013, shall, at no expense to the state, meet the requirements under subsection (a) not later than July 1, 2014.**

SECTION 8. IC 12-17.2-4-3, AS AMENDED BY P.L.145-2006, SECTION 97, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 3. (a) An applicant must apply for a child care center license on forms provided by the division.

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

C
O
P
Y



application.

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

(1) has not been convicted of:

(A) a felony:

- (i) related to the health or safety of a child;
- (ii) that is a sex offense (as defined in IC 11-8-8-5.2);
- (iii) that is a dangerous felony; or
- (iv) that is not a felony otherwise described in items (i) through (iii), and less than ten (10) years have elapsed from the date the person was discharged from probation, imprisonment, or parole, whichever discharge date is latest;

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

(C) a misdemeanor for operating a child care center without a license under section 35 of this chapter, **or of a substantially similar offense committed in another jurisdiction if the offense is directly or indirectly related to jeopardizing the health or safety of a child;** or

(D) a misdemeanor for operating a child care home without a license under IC 12-17.2-5-35, **or of a substantially similar offense committed in another jurisdiction if the offense is directly or indirectly related to jeopardizing the health or safety of a child;** and

(2) has not been charged with:

(A) a felony;

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

(C) a misdemeanor for operating a child care center without a license under section 35 of this chapter, **or with a substantially similar offense in another jurisdiction if the offense is directly or indirectly related to jeopardizing the health or safety of a child;** or

(D) a misdemeanor for operating a child care home without a license under IC 12-17.2-5-35, **or with a substantially similar offense in another jurisdiction if the offense is directly or indirectly related to jeopardizing the health or safety of a child;**

during the pendency of the application.

(d) An applicant ~~must~~, **shall, at no expense to the state**, submit:

(1) the necessary information, forms, or consents; for the division to obtain and

(2) the applicant's fingerprints;

C
O
P
Y



for a national criminal history background check ~~on the applicant through the state police department under IC 10-13-3-39~~; **by the Federal Bureau of Investigation.**

(e) **Subject to section 3.3 of this chapter**, the applicant must, **at no expense to the state**, do the following:

(1) ~~Conduct~~ **Require an employee or volunteer of the applicant who has direct contact with a child who is receiving child care from the applicant to submit fingerprints for a national criminal history background check of the applicant's employees and volunteers: by the Federal Bureau of Investigation.**

(2) ~~Maintain records of each criminal history check. Report to the division any:~~

(A) **police investigations;**

(B) **arrests; and**

(C) **criminal convictions;**

of which the applicant is aware regarding the applicant or an employee or volunteer described in subdivision (1).

An applicant shall require an individual described in subdivision (1) to apply for a national criminal history background check before the individual is employed or allowed to volunteer and every three (3) years thereafter that the individual is continuously employed or allowed to volunteer.

SECTION 9. IC 12-17.2-4-3.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: **Sec. 3.3. A person that holds a license under this chapter on July 1, 2013, shall, at no expense to the state, meet the requirements under section 3(e) of this chapter not later than July 1, 2014."**

Delete pages 4 through 7.

Page 8, delete lines 1 through 18.

Page 8, line 34, delete "contact," and insert "contact".

Page 8, line 34, strike "on a regular and continuous".

Page 8, line 35, strike "basis,".

Page 8, line 35, strike "under the direct supervision of" and insert **"receiving child care from"**.

Page 8, line 36, delete "contact," and insert "contact".

Page 8, line 37, strike "on a regular and continuous basis,".

Page 8, line 37, strike "under".

Page 8, line 38, strike "the direct supervision of" and insert **"receiving child care from"**.

Page 9, line 8, after "chapter" insert ",".

Page 9, line 9, delete "jurisdiction," and insert **"jurisdiction"**.

C
O
P
Y



- Page 9, line 13, after "IC 12-17.2-5-35" insert ",".
- Page 9, line 14, delete "jurisdiction," and insert "**jurisdiction**".
- Page 10, line 4, delete "contact," and insert "contact".
- Page 10, line 4, strike "on a regular and continuous".
- Page 10, line 5, strike "basis,".
- Page 10, line 5, strike "under the direct supervision of" and insert "**receiving child care from**".
- Page 10, line 6, delete "contact," and insert "contact".
- Page 10, line 6, strike "on".
- Page 10, line 7, strike "a regular and continuous basis,".
- Page 10, line 7, strike "under the".
- Page 10, line 8, strike "direct supervision of" and insert "**receiving child care from**".
- Page 10, line 20, delete "chapter" and insert "chapter,".
- Page 10, line 21, delete "jurisdiction," and insert "**jurisdiction**".
- Page 10, line 25, delete "IC 12-17.2-5-35" and insert "IC 12-17.2-5-35,".
- Page 10, line 26, delete "jurisdiction," and insert "**jurisdiction**".
- Page 11, delete lines 2 through 42, begin a new paragraph and insert:
- "SECTION 12. IC 12-17.2-5-3, AS AMENDED BY P.L.145-2006, SECTION 100, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 3. (a) An applicant must apply for a child care home license on forms provided by the division.
- (b) An applicant must submit the required information as part of the application.
- (c) An applicant must submit with the application a statement attesting that the applicant has not been:
- (1) convicted of:
- (A) a felony:
- (i) **related to the health or safety of a child;**
- (ii) **that is a sex offense (as defined in IC 11-8-8-5.2);**
- (iii) **that is a dangerous felony; or**
- (iv) **that is not a felony otherwise described in items (i) through (iii), and less than ten (10) years have elapsed from the date the person was discharged from probation, imprisonment, or parole, whichever discharge date is latest;**
- (B) a misdemeanor relating to the health or safety of children;
- (C) a misdemeanor for operating a child care center without a license under IC 12-17.2-4-35, **or of a substantially similar offense committed in another jurisdiction if the offense is**

C
O
P
Y



directly or indirectly related to jeopardizing the health or safety of a child; or

(D) a misdemeanor for operating a child care home without a license under section 35 of this chapter, **or of a substantially similar offense committed in another jurisdiction if the offense is directly or indirectly related to jeopardizing the health or safety of a child; and**

(2) charged with:

(A) a felony;

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

(C) a misdemeanor for operating a child care center without a license under IC 12-17.2-4-35, **or with a substantially similar offense in another jurisdiction if the offense is directly or indirectly related to jeopardizing the health or safety of a child; or**

(D) a misdemeanor for operating a child care home without a license under section 35 of this chapter, **or with a substantially similar offense in another jurisdiction if the offense is directly or indirectly related to jeopardizing the health or safety of a child;**

during the pendency of the application.

(d) An applicant must submit:

(1) the necessary information, forms, or consents; ~~for the division to:~~ **and**

~~(1) conduct~~ **(2) the fingerprints of the applicant and the applicant's spouse;**

for a national criminal history background check on the applicant's spouse; and

~~(2) obtain a national criminal history background check on the applicant. through the state police department under IC 10-13-3-39. by Federal Bureau of Investigation.~~

(e) **Subject to section 3.3 of this chapter, an applicant must do the following: shall require:**

(1) Conduct a criminal history check of the applicant's:

(A) employees;

(B) volunteers; and

(C) household members who are:

(i) at least eighteen (18) years of age; or

(ii) less than eighteen (18) years of age but have previously been waived from juvenile court to adult court;

(2) Maintain records of each criminal history check:

(1) **an employee or a volunteer of the applicant who has direct**

C
O
P
Y



contact with a child who is receiving child care from the applicant; and

(2) the applicant's household members who are:

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

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

to submit fingerprints for a national criminal history background check by the Federal Bureau of Investigation. An applicant shall require an individual described in subdivision (1) to apply for a national criminal history background check before the individual is employed or allowed to volunteer and every three (3) years thereafter that the individual is continuously employed or allowed to volunteer.

(f) In addition to the requirements under subsections (d) and (e), an applicant must report to the division any:

(A) police investigations;

(B) arrests; and

(C) criminal convictions;

of which the applicant is aware regarding the applicant, the applicant's spouse, or a person described in subsection (e).

SECTION 13. IC 12-17.2-5-3.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: **Sec. 3.3. A person that holds a license under this chapter on July 1, 2013, shall, at no expense to the state, meet the requirements under section 3(e) of this chapter not later than July 1, 2014."**

Page 12, delete lines 1 through 21.

Page 12, line 38, delete "contact," and insert "contact".

Page 12, line 38, strike "on a regular and continuous".

Page 12, line 39, strike "basis,".

Page 12, line 39, strike "under the direct supervision of" and insert **"receiving child care from"**.

Page 12, line 40, delete "contact," and insert "contact".

Page 12, line 40, strike "on".

Page 12, line 41, strike "a regular and continuous basis,".

Page 12, line 41, strike "under the".

Page 12, line 42, strike "direct supervision of" and insert **"receiving child care from"**.

Page 13, line 14, delete ",,".

Page 13, line 19, delete ",,".

Page 14, line 14, delete "contact," and insert "contact".

Page 14, line 14, strike "on a regular and continuous".

C
O
P
Y



Page 14, line 15, strike "basis,".

Page 14, line 15, strike "under the direct supervision of" and insert **"receiving child care from"**.

Page 14, line 16, delete "contact," and insert "contact".

Page 14, line 16, strike "on a".

Page 14, line 17, strike "regular and continuous basis,".

Page 14, line 17, strike "under the".

Page 14, line 18, strike "direct supervision of" and insert **"receiving child care from"**.

Page 14, line 32, delete "jurisdiction," and insert **"jurisdiction"**.

Page 14, line 37, delete "jurisdiction," and insert **"jurisdiction"**.

Page 15, delete lines 17 through 42, begin a new paragraph and insert:

"SECTION 16. IC 12-17.2-6-14, AS AMENDED BY P.L. 124-2007, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 14. (a) The child care ministry must do the following:

(1) ~~Conduct~~ **Subject to subsection (c), require, at no expense to the state, an employee or a volunteer who has direct contact with a child who is receiving child care from the child care ministry to submit fingerprints for a national criminal history background check of the child care ministry's employees and volunteers: by the Federal Bureau of Investigation.**

(2) **Report to the division any:**

(A) **police investigations;**

(B) **arrests; and**

(C) **criminal convictions;**

of which the operator or director of the child care ministry is aware regarding an employee or volunteer described in subdivision (1).

~~(2)~~ (3) **Refrain from employing, or allowing to serve as a volunteer, an individual who has direct contact with a child who is receiving child care from the child care ministry and who:**

(A) **has been convicted of any of the following felonies:**

(i) **Murder (IC 35-42-1-1);**

(ii) **Causing suicide (IC 35-42-1-2);**

(iii) **Assisting suicide (IC 35-42-1-2.5);**

(iv) **Voluntary manslaughter (IC 35-42-1-3);**

(v) **Reckless homicide (IC 35-42-1-5);**

(vi) **Battery (IC 35-42-2-1);**

(vii) **Aggravated battery (IC 35-42-2-1.5);**

(viii) **Kidnapping (IC 35-42-3-2);**



C
o
p
y

- (ix) Criminal confinement (IC 35-42-3-3);
 - (x) A felony sex offense under IC 35-42-4;
 - (xi) Carjacking (IC 35-42-5-2);
 - (xii) Arson (IC 35-43-1-1);
 - (xiii) Incest (IC 35-46-1-3);
 - (xiv) Neglect of a dependent (IC 35-46-1-4(a)(1) and IC 35-46-1-4(a)(2));
 - (xv) Child selling (IC 35-46-1-4(d));
 - (xvi) A felony involving a weapon under IC 35-47 or IC 35-47.5;
 - (xvii) A felony relating to controlled substances under IC 35-48-4;
 - (xviii) An offense relating to material or a performance that is harmful to minors or obscene under IC 35-49-3;
 - (xix) A felony that is substantially equivalent to a felony listed in items (i) through (xviii) for which the conviction was entered in another state: a felony:
 - (i) related to the health or safety of a child;
 - (ii) that is a sex offense (as defined in IC 11-8-8-5.2);
 - (iii) that is a dangerous felony; or
 - (iv) that is not a felony otherwise described in items (i) through (iii), and less than ten (10) years have elapsed from the date the person was discharged from probation, imprisonment, or parole, whichever discharge date is latest;
 - (B) has been convicted of a misdemeanor related to the health or safety of a child;
 - (C) has been convicted of a misdemeanor under IC 12-17.2-4-35 for operating a child care center without a license, or of a substantially similar offense committed in another jurisdiction if the offense is directly or indirectly related to jeopardizing the health or safety of a child;
 - (D) has been convicted of a misdemeanor under IC 12-17.2-5-35 for operating a child care home without a license, or of a substantially similar offense committed in another jurisdiction if the offense is directly or indirectly related to jeopardizing the health or safety of a child; or
 - (E) is a person against whom an allegation of child abuse or neglect has been substantiated under IC 31-33, or under a substantially similar provision in another jurisdiction.
- (3) Maintain records of each criminal history check.
- (b) A child care ministry shall require an individual described

C
O
P
Y



in subsection (a)(1) to apply for a national criminal history background check before the individual is employed or allowed to volunteer and every three (3) years thereafter that the individual is continuously employed or allowed to volunteer.

(c) A child care ministry that is registered under this chapter on July 1, 2013, shall, at no expense to the state, meet the requirements under subsection (a)(1) not later than July 1, 2014."

Delete page 16.

Renumber all SECTIONS consecutively.

(Reference is to EHB 1494 as printed March 15, 2013.)

HOLDMAN

C
o
p
y

