



February 15, 2013

HOUSE BILL No. 1494

DIGEST OF HB 1494 (Updated February 13, 2013 2:04 pm - DI 107)

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

Synopsis: National criminal history background checks for child care. Requires caregivers at certain child care providers to undergo national criminal history background checks. (The introduced version of this bill was prepared by the committee on child care.)

Effective: July 1, 2013.

Summers, Mahan

January 22, 2013, read first time and referred to Committee on Family, Children and Human Affairs.
February 14, 2013, amended, reported — Do Pass.

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HB 1494—LS 6733/DI 97+



February 15, 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.

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 12-7-2-131.8 IS ADDED TO THE INDIANA
2 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
3 [EFFECTIVE JULY 1, 2013]: **Sec. 131.8. "National criminal history**
4 **background check", for purposes of IC 12-17.2, means a national**
5 **criminal history background check conducted by the state police**
6 **department under IC 10-13-3-39.**

7 SECTION 2. IC 12-17.2-2-1, AS AMENDED BY P.L.1-2009,
8 SECTION 105, IS AMENDED TO READ AS FOLLOWS
9 [EFFECTIVE JULY 1, 2013]: Sec. 1. The division shall perform the
10 following duties:

- 11 (1) Administer the licensing and monitoring of child care centers
12 or child care homes in accordance with this article.
13 (2) Ensure that a national criminal history background check of
14 the applicant is completed ~~through the state police department~~
15 ~~under IC 10-13-3-39~~ before issuing a license.
16 (3) Ensure that a **national** criminal history background check of
17 a child care ministry applicant for registration is completed before

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- 1 registering the child care ministry.
 2 (4) Provide for the issuance, denial, suspension, and revocation of
 3 licenses.
 4 (5) Cooperate with governing bodies of child care centers and
 5 child care homes and their staffs to improve standards of child
 6 care.
 7 (6) Prepare at least biannually a directory of licensees with a
 8 description of the program capacity and type of children served
 9 that will be distributed to the legislature, licensees, and other
 10 interested parties as a public document.
 11 (7) Deposit all license application fees collected under section 2
 12 of this chapter in the division of family resources child care fund
 13 established by IC 12-17.2-2-3.
 14 (8) Require each child care center or child care home to record
 15 proof of a child's date of birth before accepting the child. A child's
 16 date of birth may be proven by the child's original birth certificate
 17 or other reliable proof of the child's date of birth, including a duly
 18 attested transcript of a birth certificate.
 19 (9) Provide an Internet site through which members of the public
 20 may obtain the following information:
 21 (A) Information concerning violations of this article by a
 22 licensed child care provider, including:
 23 (i) the identity of the child care provider;
 24 (ii) the date of the violation; and
 25 (iii) action taken by the division in response to the violation.
 26 (B) Current status of a child care provider's license.
 27 (C) Other relevant information.
 28 The Internet site may not contain the address of a child care home
 29 or information identifying an individual child. However, the site
 30 may include the county and ZIP code in which a child care home
 31 is located.
 32 (10) Provide or approve training concerning safe sleeping
 33 practices for children to:
 34 (A) a provider who operates a child care program in the
 35 provider's home as described in IC 12-17.2-3.5-5.5(b); and
 36 (B) a child care home licensed under IC 12-17.2-5;
 37 including practices to reduce the risk of sudden infant death
 38 syndrome.
 39 SECTION 3. IC 12-17.2-3.5-12, AS AMENDED BY P.L.142-2006,
 40 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 41 JULY 1, 2013]: Sec. 12. (a) Except as provided in subsection (f), a
 42 provider shall at no expense to the state, maintain and make available

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1 to the division upon request a copy of **the response to a limited**
 2 **national criminal history background check** for:

- 3 (1) the provider, if the provider is an individual;
 4 (2) if the provider operates a child care program in the provider's
 5 home, any individual who resides with the provider and who is:
 6 (A) at least eighteen (18) years of age; or
 7 (B) less than eighteen (18) years of age but has previously
 8 been waived from juvenile court to adult court; and
 9 (3) any individual who:
 10 (A) is employed; or
 11 (B) volunteers;
 12 as a caregiver at the facility where the provider operates a child
 13 care program.

14 A provider shall apply for a **limited national criminal history**
 15 **background check** for an individual described in subdivision (3)
 16 before the individual is employed or allowed to volunteer as a
 17 caregiver.

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

- 20 (1) police investigations;
 21 (2) arrests; and
 22 (3) criminal convictions;

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

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

- 31 (1) the provider:
 32 (A) has applied for the **limited national criminal history**
 33 **background check** required under subsection (a); and
 34 (B) obtains a local criminal history for the individuals
 35 described in subsection (a) from each individual's local law
 36 enforcement agency before the individual is employed or
 37 allowed to volunteer as a caregiver; and
 38 (2) the local criminal history does not reveal that an individual
 39 has been convicted of a:
 40 (A) felony;
 41 (B) misdemeanor related to the health or safety of a child;
 42 (C) misdemeanor for operating a child care center without a

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- 1 license under IC 12-17.2-4-35; or
 2 (D) misdemeanor for operating a child care home without a
 3 license under IC 12-17.2-5-35.
 4 (d) A provider is ineligible to receive a voucher payment if an
 5 individual for whom a **limited national criminal history background**
 6 **check** is required under this section has been convicted of a:
 7 (1) felony;
 8 (2) misdemeanor related to the health or safety of a child;
 9 (3) misdemeanor for operating a child care center without a
 10 license under IC 12-17.2-4-35; or
 11 (4) misdemeanor for operating a child care home without a
 12 license under IC 12-17.2-5-35;
 13 until the individual is dismissed from employment or volunteer service
 14 at the facility where the provider operates a child care program or no
 15 longer resides with the provider.
 16 (e) A provider shall maintain a written policy requiring an
 17 individual for whom a **limited national criminal history background**
 18 **check** is required under this section to report any criminal convictions
 19 of the individual to the provider.
 20 (f) The state police department may not charge a church or religious
 21 society any fees or costs (**other than fees or costs charged by the**
 22 **Federal Bureau of Investigation or a private entity**) for responding
 23 to a request for a release of a **limited national criminal history**
 24 **background check** record of a prospective or current employee or a
 25 prospective or current volunteer of a child care ministry registered
 26 under IC 12-17.2-6 if the conditions set forth in IC 10-13-3-36(f) are
 27 met.
 28 SECTION 4. IC 12-17.2-4-3, AS AMENDED BY P.L.145-2006,
 29 SECTION 97, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 30 JULY 1, 2013]: Sec. 3. (a) An applicant must apply for a child care
 31 center license on forms provided by the division.
 32 (b) An applicant must submit the required information as part of the
 33 application.
 34 (c) The applicant must submit with the application a statement
 35 attesting that the applicant:
 36 (1) has not been convicted of:
 37 (A) a felony;
 38 (B) a misdemeanor relating to the health or safety of children;
 39 (C) a misdemeanor for operating a child care center without a
 40 license under section 35 of this chapter; or
 41 (D) a misdemeanor for operating a child care home without a
 42 license under IC 12-17.2-5-35; and

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- 1 (2) has not been charged with:
- 2 (A) a felony;
- 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 section 35 of this chapter; or
- 6 (D) a misdemeanor for operating a child care home without a
- 7 license under IC 12-17.2-5-35;
- 8 during the pendency of the application.
- 9 (d) An applicant must submit the necessary information, forms, or
- 10 consents for the division to obtain a national criminal history
- 11 background check on the applicant. ~~through the state police department~~
- 12 ~~under IC 10-13-3-39.~~
- 13 (e) The applicant must do the following:
- 14 (1) Conduct a **national** criminal history **background** check of the
- 15 applicant's employees and volunteers.
- 16 (2) Maintain records of **the response to** each criminal history
- 17 check.
- 18 SECTION 5. IC 12-17.2-5-3, AS AMENDED BY P.L.145-2006,
- 19 SECTION 100, IS AMENDED TO READ AS FOLLOWS
- 20 [EFFECTIVE JULY 1, 2013]: Sec. 3. (a) An applicant must apply for
- 21 a child care home license on forms provided by the division.
- 22 (b) An applicant must submit the required information as part of the
- 23 application.
- 24 (c) An applicant must submit with the application a statement
- 25 attesting that the applicant has not been:
- 26 (1) convicted of:
- 27 (A) a felony;
- 28 (B) a misdemeanor relating to the health or safety of children;
- 29 (C) a misdemeanor for operating a child care center without a
- 30 license under IC 12-17.2-4-35; or
- 31 (D) a misdemeanor for operating a child care home without a
- 32 license under section 35 of this chapter; and
- 33 (2) charged with:
- 34 (A) a felony;
- 35 (B) a misdemeanor relating to the health or safety of children;
- 36 (C) a misdemeanor for operating a child care center without a
- 37 license under IC 12-17.2-4-35; or
- 38 (D) a misdemeanor for operating a child care home without a
- 39 license under section 35 of this chapter;
- 40 during the pendency of the application.
- 41 (d) An applicant must submit the necessary information, forms, or
- 42 consents for the division to:

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- 1 (1) conduct a **national** criminal history **background** check on the
 2 applicant's spouse; and
 3 (2) obtain a national criminal history background check on the
 4 applicant. ~~through the state police department under~~
 5 ~~IC 10-13-3-39.~~
- 6 (e) An applicant must do the following:
 7 (1) Conduct a **national** criminal history **background** check of the
 8 applicant's:
 9 (A) employees;
 10 (B) volunteers; and
 11 (C) household members who are:
 12 (i) at least eighteen (18) years of age; or
 13 (ii) less than eighteen (18) years of age but have previously
 14 been waived from juvenile court to adult court.
 15 (2) Maintain records of **the response to** each criminal history
 16 check.
- 17 SECTION 6. IC 12-17.2-6-14, AS AMENDED BY P.L.124-2007,
 18 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 19 JULY 1, 2013]: Sec. 14. The child care ministry must do the following:
 20 (1) Conduct a **national** criminal history **background** check of the
 21 child care ministry's employees and volunteers.
 22 (2) Refrain from employing, or allowing to serve as a volunteer,
 23 an individual who:
 24 (A) has been convicted of ~~any of the following felonies:~~
 25 (i) ~~Murder (IC 35-42-1-1);~~
 26 (ii) ~~Causing suicide (IC 35-42-1-2);~~
 27 (iii) ~~Assisting suicide (IC 35-42-1-2.5);~~
 28 (iv) ~~Voluntary manslaughter (IC 35-42-1-3);~~
 29 (v) ~~Reckless homicide (IC 35-42-1-5);~~
 30 (vi) ~~Battery (IC 35-42-2-1);~~
 31 (vii) ~~Aggravated battery (IC 35-42-2-1.5);~~
 32 (viii) ~~Kidnapping (IC 35-42-3-2);~~
 33 (ix) ~~Criminal confinement (IC 35-42-3-3);~~
 34 (x) ~~A felony sex offense under IC 35-42-4;~~
 35 (xi) ~~Carjacking (IC 35-42-5-2);~~
 36 (xii) ~~Arson (IC 35-43-1-1);~~
 37 (xiii) ~~Incest (IC 35-46-1-3);~~
 38 (xiv) ~~Neglect of a dependent (IC 35-46-1-4(a)(1) and~~
 39 ~~IC 35-46-1-4(a)(2));~~
 40 (xv) ~~Child selling (IC 35-46-1-4(d));~~
 41 (xvi) ~~A felony involving a weapon under IC 35-47 or~~
 42 ~~IC 35-47.5.~~

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- 1 (xvii) A felony relating to controlled substances under
- 2 IC 35-48-4.
- 3 (xviii) An offense relating to material or a performance that
- 4 is harmful to minors or obscene under IC 35-49-3.
- 5 (xix) A felony that is substantially equivalent to a felony
- 6 listed in items (i) through (xviii) for which the conviction
- 7 was entered in another state: **a felony;**
- 8 (B) has been convicted of a misdemeanor related to the health
- 9 or safety of a child;
- 10 **(C) has been convicted of a misdemeanor for operating a**
- 11 **child care center without a license under IC 12-17.2-4-35;**
- 12 **(D) has been convicted of a misdemeanor for operating a**
- 13 **child care home without a license under IC 12-17.2-5-35;**
- 14 or
- 15 ~~(E)~~ (E) is a person against whom an allegation of child abuse
- 16 or neglect has been substantiated under IC 31-33.
- 17 (3) Maintain records of **the response to** each **national** criminal
- 18 history **background** check.

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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.

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