

Adopted	Rejected
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## COMMITTEE REPORT

YES:	7
NO:	4

### MR. SPEAKER:

*Your Committee on Family, Children and Human Affairs*, to which was referred Senate Bill 305, 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:

- 1           Page 1, between the enacting clause and line 1, begin a new
- 2           paragraph and insert:
- 3           "SECTION 1. IC 4-21.5-2-6, AS AMENDED BY P.L.219-2007,
- 4           SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 5           JULY 1, 2013]: Sec. 6. This article does not apply to the formulation,
- 6           issuance, or administrative review (but does apply to the judicial
- 7           review and civil enforcement) of any of the following:
- 8           (1) Except as provided in IC 12-17.2-4-18.7, ~~and~~
- 9           IC 12-17.2-5-18.7, **and IC 12-17.2-6-17**, determinations by the
- 10          division of family resources and the department of child services.
- 11          (2) Determinations by the alcohol and tobacco commission.
- 12          (3) Determinations by the office of Medicaid policy and planning
- 13          concerning recipients and applicants of Medicaid. However, this
- 14          article does apply to determinations by the office of Medicaid
- 15          policy and planning concerning providers.
- 16          SECTION 2. IC 12-7-2-55.8 IS ADDED TO THE INDIANA CODE

1 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
2 1, 2013]: **Sec. 55.8. "Decertify", for purposes of IC 12-17.2-3.5,**  
3 **means to remove, for any period of less than two (2) years, a**  
4 **provider's eligibility to receive a voucher payment.**

5 SECTION 3. IC 12-7-2-77.2 IS ADDED TO THE INDIANA CODE  
6 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
7 1, 2013]: **Sec. 77.2. "Enforcement action", for purposes of**  
8 **IC 12-17.2, refers to the following:**

9 **(1) Revocation or decertification of eligibility for a voucher**  
10 **payment under IC 12-17.2-3.5.**

11 **(2) Denial, suspension, or revocation of a license under**  
12 **IC 12-17.2-4 or IC 12-17.2-5.**

13 **(3) Denial, suspension, or revocation of a registration under**  
14 **IC 12-17.2-6."**

15 Page 2, between lines 36 and 37, begin a new line double block  
16 indented and insert:

17 **"(D) A child care ministry registered under IC 12-17.2-6.**

18 SECTION 5. IC 12-7-2-199.2 IS AMENDED TO READ AS  
19 FOLLOWS [EFFECTIVE JULY 1, 2013]: **Sec. 199.2. "Volunteer" or**  
20 **"volunteers", for purposes of IC 12-17.2-3.5, has the meaning set forth**  
21 **in IC 12-17.2-3.5-1.7. IC 12-17.2, refers to an individual who,**  
22 **without compensation, provides services to a child care home, child**  
23 **care center, provider (as defined in section 149.1(4) of this**  
24 **chapter), or child care ministry for at least eight (8) hours per**  
25 **month."**

26 Page 3, line 3, delete "under" and insert "under".

27 Page 4, between lines 7 and 8, begin a new paragraph and insert:

28 "SECTION 8. IC 12-17.2-3.5-1.7 IS REPEALED [EFFECTIVE  
29 JULY 1, 2013]. **Sec. 1.7. As used in this chapter, "volunteer" or**  
30 **"volunteers" refers to an individual who, without compensation,**  
31 **provides services to a provider."**

32 Page 4, line 32, after "IC 12-17.2-5;" delete "or".

33 Page 4, line 33, after "(2)" insert "**registration under IC 12-17.2-6;**  
34 **or**

35 **(3)".**

36 Page 4, line 38, after "license" insert "**, registration,"**.

37 Page 4, between lines 38 and 39, begin a new paragraph and insert:

38 **"(c) If the division decertifies a provider under this chapter, the**

- 1 provider:
- 2 (1) may reapply for eligibility to receive a voucher payment at
- 3 any time that the provider is able to demonstrate compliance
- 4 with this chapter; and
- 5 (2) is not eligible to receive a voucher payment under this
- 6 chapter until the provider receives notice from the division
- 7 that the provider's application under subdivision (1) has been
- 8 approved."
- 9 Page 5, line 10, delete "27" and insert "18".
- 10 Page 5, line 30, delete "Sanitation" and insert "A provider shall
- 11 meet sanitation".
- 12 Page 5, line 30, delete "must include bathroom" and insert
- 13 "established by the division for bathrooms".
- 14 Page 7, delete lines 37 through 41.
- 15 Page 7, line 42, delete "IC 12-17.2-3.5-18" and insert
- 16 "IC 12-17.2-3.5-16".
- 17 Page 8, line 2, delete "18. The division may suspend a" and insert
- 18 "16. A provider is ineligible, and the division may revoke for a
- 19 period of not less than two (2) years from the date on which a final
- 20 determination is made under IC 4-21.5 a".
- 21 Page 8, line 3, after "eligibility" insert ",".
- 22 Page 8, delete lines 17 through 42, begin a new line block indented
- 23 and insert:
- 24 "(5) Allegations of welfare fraud committed by the provider
- 25 have been substantiated by the division.
- 26 SECTION 17. IC 12-17.2-3.5-17 IS ADDED TO THE INDIANA
- 27 CODE AS A NEW SECTION TO READ AS FOLLOWS
- 28 [EFFECTIVE JULY 1, 2013]: **Sec. 17. (a) A provider is ineligible to**
- 29 **receive a voucher payment under this chapter if any of the**
- 30 **following conditions exist, posing an imminent threat to the life or**
- 31 **well-being of a child in the care of the provider at a facility where**
- 32 **the provider operates a child care program:**
- 33 (1) **Building damage due to:**
- 34 (A) **earthquake;**
- 35 (B) **flooding or water damage;**
- 36 (C) **tornado;**
- 37 (D) **severe wind;**
- 38 (E) **ice storm;**

- 1 (F) fire;  
 2 (G) lead contamination; or  
 3 (H) asbestos.
- 4 (2) Sewage problems as follows:  
 5 (A) Sewage backup.  
 6 (B) Toilets cannot be flushed or are overflowing.  
 7 (C) Sewage system is not operating properly.
- 8 (3) Inadequate or unsafe water supply as follows:  
 9 (A) Contaminated water supply.  
 10 (B) Water supply not functioning.
- 11 (4) No electricity in the building.  
 12 (5) Heating system problems.  
 13 (6) Gas, carbon monoxide, or other noxious gases leak.  
 14 (7) Filthy conditions.  
 15 (8) Rodent, roach, or vermin infestation.  
 16 (9) Building renovation occurring in a room or area occupied  
 17 by children.  
 18 (10) Building condition that is structurally unsafe.  
 19 (11) Lack of supervision, which results in the death or serious  
 20 injury of a child.  
 21 (12) The presence at the facility where the provider operates  
 22 a child care program of an individual who is, based on the  
 23 results of a criminal history background check required by  
 24 this chapter, prohibited under this chapter from being present  
 25 at the facility.
- 26 (b) If an employee or agent of the division determines that a  
 27 condition described in subsection (a) exists at a facility where a  
 28 provider that is currently eligible to receive a voucher payment  
 29 under this chapter operates a child care program, the division  
 30 shall:
- 31 (1) issue an emergency or another temporary order under  
 32 IC 4-21.5-4 decertifying the provider; and  
 33 (2) contact the parent or guardian of each child in the care of  
 34 the provider to inform the parent or guardian:  
 35 (A) that the division has issued an order decertifying the  
 36 provider; and  
 37 (B) of the reason for the decertification;  
 38 pending the outcome of proceedings conducted under section 14 of

1 this chapter. However, a provider's eligibility may be reinstated in  
2 accordance with subsection (e).

3 (c) An emergency or other temporary order issued by an  
4 employee or agent of the division must be approved by the  
5 director.

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

9 (e) If, within the fifteen (15) day period beginning on the date on  
10 which an order is issued under subsection (b), the provider:

11 (1) submits to the division a remediation plan that is approved  
12 for implementation by the division; and

13 (2) completes the remediation plan to the satisfaction of the  
14 division;

15 the order issued under this section is void and the provider's  
16 eligibility to receive a voucher payment is reinstated."

17 Delete page 9.

18 Page 10, delete lines 1 through 5.

19 Page 10, line 6, delete "IC 12-17.2-3.5-27" and insert  
20 "IC 12-17.2-3.5-18".

21 Page 10, line 8, delete "27." and insert "18."

22 Page 10, after line 19, begin a new paragraph and insert:

23 "SECTION 19. IC 12-17.2-4-18.7 IS AMENDED TO READ AS  
24 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 18.7. (a) ~~The division~~  
25 ~~shall adopt rules under IC 4-22-2 to establish a list of violations of this~~  
26 ~~article that would pose an immediate threat to the life or well-being of~~  
27 ~~a child in the care of a licensee: A child care center is ineligible for~~  
28 **licensure under this chapter if any of the following conditions exist,**  
29 **posing an imminent threat to the life or well-being of a child in the**  
30 **care of the child care center:**

31 (1) **Building damage due to:**

32 (A) **earthquake;**

33 (B) **flooding or water damage;**

34 (C) **tornado;**

35 (D) **severe wind;**

36 (E) **ice storm;**

37 (F) **fire;**

38 (G) **lead contamination; or**

- 1                   **(H) asbestos.**
- 2                   **(2) Sewage problems as follows:**
- 3                   **(A) Sewage backup.**
- 4                   **(B) Toilets cannot be flushed or are overflowing.**
- 5                   **(C) Sewage system is not operating properly.**
- 6                   **(3) Inadequate or unsafe water supply as follows:**
- 7                   **(A) Contaminated water supply.**
- 8                   **(B) Water supply not functioning.**
- 9                   **(4) No electricity in the building.**
- 10                  **(5) Heating system problems.**
- 11                  **(6) Gas, carbon monoxide, or other noxious gases leak.**
- 12                  **(7) Filthy conditions.**
- 13                  **(8) Rodent, roach, or vermin infestation.**
- 14                  **(9) Building renovation occurring in a room or area occupied**
- 15                  **by children.**
- 16                  **(10) Building condition that is structurally unsafe.**
- 17                  **(11) Lack of supervision, which results in the death or serious**
- 18                  **injury of a child.**
- 19                  **(12) The presence at the child care center of an individual who**
- 20                  **is, based on the results of a criminal history background check**
- 21                  **required by this chapter, prohibited under this chapter from**
- 22                  **being present at the child care center.**
- 23                  (b) If an employee or agent of the division determines that a
- 24                  **violation condition** described in subsection (a) exists **at a currently**
- 25                  **licensed child care center**, the division shall:
- 26                       (1) issue an emergency or another temporary order under
- 27                       IC 4-21.5-4 requiring the licensee to immediately cease operation
- 28                       of the child care center; and
- 29                       (2) contact the parent or guardian of each child enrolled in the
- 30                       child care center to inform the parent or guardian:
- 31                               (A) that the division has issued an order to require the licensee
- 32                               to cease operation of the child care center; and
- 33                               (B) of the reason for the order to cease operation;
- 34                  pending the outcome of proceedings conducted under sections 20
- 35                  through 22 of this chapter. **However, a child care center may resume**
- 36                  **operation in accordance with subsection (e).**
- 37                  (c) An emergency or another temporary order issued by an
- 38                  employee or agent of the division must be approved by the director.

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

4 **(e) If, within the fifteen (15) day period beginning on the date on**  
 5 **which an order is issued under subsection (b), the child care center:**

6 **(1) submits to the division a remediation plan that is approved**  
 7 **for implementation by the division; and**

8 **(2) completes the remediation plan to the satisfaction of the**  
 9 **division;**

10 **the order issued under this section is void and the child care center**  
 11 **may resume operation.**

12 SECTION 20. IC 12-17.2-4-28 IS AMENDED TO READ AS  
 13 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 28. **(a)** A final decision  
 14 of the division made after a hearing is subject to judicial review under  
 15 IC 4-21.5-5.

16 **(b) This chapter does not preclude a child care center from**  
 17 **filing a petition under IC 12-17.2-7 in relation to an order of the**  
 18 **division under section 18.7 of this chapter.**

19 SECTION 21. IC 12-17.2-4-32, AS AMENDED BY P.L.146-2006,  
 20 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 21 JULY 1, 2013]: Sec. 32. (a) The following constitute sufficient grounds  
 22 for revocation of a license:

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

25 (A) the licensee;

26 (B) an employee of the licensee who has direct contact, on a  
 27 regular and continuous basis, with children who are under the  
 28 direct supervision of the licensee; or

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

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

38 (A) A felony.

- 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.  
 4 (D) A misdemeanor for operating a child care home without a  
 5 license under IC 12-17.2-5-35.
- 6 (3) A determination by the division that the licensee made false  
 7 statements in the licensee's:  
 8 (A) application for licensure; or  
 9 ~~(4) A determination by the division that the licensee made false~~  
 10 ~~statements in the~~  
 11 (B) records required by the division.
- 12 **(4) The licensee fails to correct a problem identified by the**  
 13 **division within the period required by the division.**  
 14 **(5) Credible allegations of fraud have been made against the**  
 15 **licensee, as determined by the division.**  
 16 **(6) Criminal charges of welfare fraud have been filed against**  
 17 **the licensee.**  
 18 **(7) Allegations of welfare fraud committed by the licensee**  
 19 **have been substantiated by the division.**
- 20 ~~(5)~~ **(8)** A determination by the division that the licensee  
 21 previously operated a:  
 22 (A) child care center without a license under this chapter; or  
 23 (B) child care home without a license under IC 12-17.2-5.
- 24 (b) Notwithstanding subsection (a)(2), if:  
 25 (1) a license is revoked due to a criminal conviction of an  
 26 employee or a volunteer of the licensee; and  
 27 (2) the division determines that the employee or volunteer has  
 28 been dismissed by the licensee;  
 29 the criminal conviction of the former employee or former volunteer  
 30 does not require revocation of a license.
- 31 SECTION 22. IC 12-17.2-5-18.7 IS AMENDED TO READ AS  
 32 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 18.7. (a) ~~The division~~  
 33 ~~shall adopt rules under IC 4-22-2 to establish a list of violations of this~~  
 34 ~~article that would pose an immediate threat to the life or well-being of~~  
 35 ~~a child in the care of a licensee: A child care home is ineligible for~~  
 36 **licensure under this chapter if any of the following conditions exist,**  
 37 **posing an imminent threat to the life or well-being of a child in the**  
 38 **care of the child care home:**

- 1           **(1) Building damage due to:**  
 2           **(A) earthquake;**  
 3           **(B) flooding or water damage;**  
 4           **(C) tornado;**  
 5           **(D) severe wind;**  
 6           **(E) ice storm;**  
 7           **(F) fire;**  
 8           **(G) lead contamination; or**  
 9           **(H) asbestos.**
- 10          **(2) Sewage problems as follows:**  
 11          **(A) Sewage backup.**  
 12          **(B) Toilets cannot be flushed or are overflowing.**  
 13          **(C) Sewage system is not operating properly.**
- 14          **(3) Inadequate or unsafe water supply as follows:**  
 15          **(A) Contaminated water supply.**  
 16          **(B) Water supply not functioning.**
- 17          **(4) No electricity in the building.**  
 18          **(5) Heating system problems.**  
 19          **(6) Gas, carbon monoxide, or other noxious gases leak.**  
 20          **(7) Filthy conditions.**  
 21          **(8) Rodent, roach, or vermin infestation.**  
 22          **(9) Building renovation occurring in a room or area occupied**  
 23          **by children.**  
 24          **(10) Building condition that is structurally unsafe.**  
 25          **(11) Lack of supervision, which results in the death or serious**  
 26          **injury of a child.**  
 27          **(12) The presence at the child care home of an individual who**  
 28          **is, based on the results of a criminal history background check**  
 29          **required by this chapter, prohibited under this chapter from**  
 30          **being present at the child care home.**
- 31          (b) If an employee or agent of the division determines that a  
 32          ~~violation~~ **condition** described in subsection (a) exists **at a currently**  
 33          **licensed child care home**, the division shall:  
 34                  (1) issue an emergency or another temporary order under  
 35                  IC 4-21.5-4 requiring the licensee to immediately cease operation  
 36                  of the child care home; and  
 37                  (2) contact the parent or guardian of each child enrolled in the  
 38                  child care home to inform the parent or guardian:

1 (A) that the division has issued an order to require the licensee  
2 to cease operation of the child care home; and

3 (B) of the reason for the order to cease operation;  
4 pending the outcome of proceedings conducted under sections 20  
5 through 22 of this chapter. **However, a child care home may resume  
6 operation in accordance with subsection (e).**

7 (c) An emergency or another temporary order issued by an  
8 employee or agent of the division must be approved by the director.

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

12 **(e) If within the fifteen (15) day period beginning on the date on  
13 which an order is issued under subsection (b), the child care home:**

14 **(1) submits to the division a remediation plan that is approved  
15 for implementation by the division; and**

16 **(2) completes the remediation plan to the satisfaction of the  
17 division;**

18 **the order issued under this section is void and the child care home  
19 may resume operation.**

20 SECTION 23. IC 12-17.2-5-28 IS AMENDED TO READ AS  
21 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 28. **(a)** A final decision  
22 of the division made after a hearing is subject to judicial review under  
23 IC 4-21.5-5.

24 **(b) This chapter does not preclude a child care home from filing  
25 a petition under IC 12-17.2-7 in relation to an order of the division  
26 under section 18.7 of this chapter.**

27 SECTION 24. IC 12-17.2-5-32, AS AMENDED BY P.L.124-2007,  
28 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
29 JULY 1, 2013]: Sec. 32. (a) The following constitute sufficient grounds  
30 for revocation of a license:

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

33 (A) the licensee;

34 (B) a member of the licensee's household;

35 (C) an employee of the licensee who has direct contact, on a  
36 regular and continuous basis, with children who are under the  
37 direct supervision of the licensee; or

38 (D) a volunteer of the licensee who has direct contact, on a

- 1 regular and continuous basis, with children who are under the
- 2 direct supervision of the licensee.
- 3 (2) A criminal conviction of the licensee, an employee of the
- 4 licensee who has direct contact, on a regular and continuous
- 5 basis, with children who are under the direct supervision of the
- 6 licensee, a volunteer of the licensee who has direct contact, on a
- 7 regular and continuous basis, with children who are under the
- 8 direct supervision of the licensee, or a member of the licensee's
- 9 household, of any of the following:
- 10 (A) A felony.
- 11 (B) A misdemeanor related to the health or safety of a child.
- 12 (C) A misdemeanor for operating a child care center without
- 13 a license under IC 12-17.2-4-35.
- 14 (D) A misdemeanor for operating a child care home without a
- 15 license under section 35 of this chapter.
- 16 (3) A determination by the division that the licensee made false
- 17 statements in the licensee's:
- 18 (A) application for licensure; **or**
- 19 ~~(4) A determination by the division that the licensee made false~~
- 20 ~~statements in the~~
- 21 (B) records required by the division.
- 22 **(4) The licensee fails to correct a problem identified by the**
- 23 **division within the period required by the division.**
- 24 **(5) Credible allegations of fraud have been made against the**
- 25 **licensee, as determined by the division.**
- 26 **(6) Criminal charges of welfare fraud have been filed against**
- 27 **the licensee.**
- 28 **(7) Allegations of welfare fraud committed by the licensee**
- 29 **have been substantiated by the division.**
- 30 ~~(5)~~ **(8)** A determination by the division that the licensee
- 31 previously operated a:
- 32 (A) child care center without a license under IC 12-17.2-4; or
- 33 (B) child care home without a license under this chapter.
- 34 (b) Notwithstanding subsection (a)(2), if:
- 35 (1) a license is revoked due to a criminal conviction of:
- 36 (A) an employee or a volunteer of the licensee's; or
- 37 (B) a resident of the licensee's household; and
- 38 (2) the division determines that the:

- 1 (A) employee or volunteer has been dismissed by the licensee;
- 2 or
- 3 (B) member of the licensee's household is no longer a member
- 4 of the licensee's household;
- 5 the criminal conviction of the former employee, former volunteer, or
- 6 former member does not require revocation of a license.

7 SECTION 25. IC 12-17.2-6-16 IS ADDED TO THE INDIANA  
 8 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 9 [EFFECTIVE JULY 1, 2013]: **Sec. 16. (a) The division may grant a**  
 10 **probationary registration to a child care ministry that is**  
 11 **temporarily unable to comply with a rule if:**

- 12 (1) the noncompliance does not present an immediate threat
- 13 to the health and well-being of the children in the care of the
- 14 child care ministry;
- 15 (2) the child care ministry files a plan with the division or the
- 16 state fire marshal to correct the areas of noncompliance
- 17 within the probationary period; and
- 18 (3) the division or state fire marshal approves the plan.

19 (b) A probationary registration is valid for not more than six (6)  
 20 months. The division may extend a probationary registration for  
 21 one (1) additional period of six (6) months.

22 (c) A registration is invalidated when a probationary  
 23 registration is issued.

24 (d) When the probationary registration expires, the division  
 25 shall reinstate the original registration or revoke the registration.

26 (e) Upon receipt of a probationary registration, the child care  
 27 ministry shall return to the division the previously issued  
 28 registration.

29 (f) The division shall:

- 30 (1) upon issuing a probationary registration under this
- 31 section, provide written notice to the child care ministry that
- 32 the division will provide the notice required under subdivision
- 33 (2); and
- 34 (2) not more than seven (7) days after issuing a probationary
- 35 registration under this section, publish notice under IC 5-3-1
- 36 and provide written notice to the parent or guardian of each
- 37 child enrolled in the child care ministry of the:

38 (A) issuance of the probationary registration; and

1           **(B) reason for the issuance of the probationary**  
2           **registration.**

3           SECTION 26. IC 12-17.2-6-17 IS ADDED TO THE INDIANA  
4           CODE AS A NEW SECTION TO READ AS FOLLOWS  
5           [EFFECTIVE JULY 1, 2013]: **Sec. 17. (a) A child care ministry is**  
6           **ineligible for registration under this chapter if any of the following**  
7           **conditions exist, posing an imminent threat to the life or well-being**  
8           **of a child in the care of the child care ministry:**

- 9           **(1) Building damage due to:**
  - 10           **(A) earthquake;**
  - 11           **(B) flooding or water damage;**
  - 12           **(C) tornado;**
  - 13           **(D) severe wind;**
  - 14           **(E) ice storm;**
  - 15           **(F) fire;**
  - 16           **(G) lead contamination; or**
  - 17           **(H) asbestos.**
- 18           **(2) Sewage problems as follows:**
  - 19           **(A) Sewage backup.**
  - 20           **(B) Toilets cannot be flushed or are overflowing.**
  - 21           **(C) Sewage system is not operating properly.**
- 22           **(3) Inadequate or unsafe water supply as follows:**
  - 23           **(A) Contaminated water supply.**
  - 24           **(B) Water supply not functioning.**
- 25           **(4) No electricity in the building.**
- 26           **(5) Heating system problems.**
- 27           **(6) Gas, carbon monoxide, or other noxious gases leak.**
- 28           **(7) Filthy conditions.**
- 29           **(8) Rodent, roach, or vermin infestation.**
- 30           **(9) Building renovation occurring in a room or area occupied**  
31           **by children.**
- 32           **(10) Building condition that is structurally unsafe.**
- 33           **(11) Lack of supervision, which results in the death or serious**  
34           **injury of a child.**
- 35           **(12) The presence at the child care ministry of an individual**  
36           **who is, based on the results of a criminal history background**  
37           **check required by this chapter, prohibited under this chapter**  
38           **from being present at the child care ministry.**

1           **(b) If an employee or agent of the division determines that a**  
2 **condition described in subsection (a) exists at a currently**  
3 **registered child care ministry, the division shall:**

4           **(1) issue an emergency or other temporary order under**  
5 **IC 4-21.5-4 requiring the child care ministry to immediately**  
6 **cease operation; and**

7           **(2) contact the parent or guardian of each child in the care of**  
8 **the child care ministry to inform the parent or guardian:**

9           **(A) that the division has issued an order to require the**  
10 **child care ministry to cease operation; and**

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

12 **pending the outcome of proceedings conducted under sections 20**  
13 **through 22 of this chapter. However, a child care ministry may**  
14 **resume operation in accordance with subsection (e).**

15           **(c) An emergency or other temporary order issued by an**  
16 **employee or agent of the division must be approved by the**  
17 **director.**

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

21           **(e) If, within the fifteen (15) day period beginning on the date on**  
22 **which an order is issued under subsection (b), the child care**  
23 **ministry:**

24           **(1) submits to the division a remediation plan that is approved**  
25 **for implementation by the division; and**

26           **(2) completes the remediation plan to the satisfaction of the**  
27 **division;**

28 **the order issued under this section is void and the child care**  
29 **ministry may resume operation.**

30           SECTION 27. IC 12-17.2-6-18 IS ADDED TO THE INDIANA  
31 CODE AS A NEW SECTION TO READ AS FOLLOWS  
32 [EFFECTIVE JULY 1, 2013]: **Sec. 18. (a) If the division determines**  
33 **that a child care ministry is not operated by a:**

34           **(1) church that is recognized as a religious organization**  
35 **exempt from taxation under Section 501 of the Internal**  
36 **Revenue Code; or**

37           **(2) religious ministry that is recognized:**

38           **(A) as a religious organization exempt from taxation under**

1           **Section 501 of the Internal Revenue Code; and**  
 2           **(B) by the Indiana secretary of state as a nonprofit**  
 3           **religious corporation;**  
 4           **the division shall issue to the child care ministry written notice that**  
 5           **the child care ministry does not meet the requirements of this**  
 6           **chapter to operate as a registered child care ministry and an order**  
 7           **for the child care ministry to cease operation as a registered child**  
 8           **care ministry not later than thirty (30) days after the date the**  
 9           **written notice and order is issued.**

10           **(b) If, within the thirty (30) day period described in subsection**  
 11           **(a), the child care ministry:**

12                   **(1) provides to the division documentation that the child care**  
 13                   **ministry is eligible to operate as a registered child care**  
 14                   **ministry, the division shall void the order issued under**  
 15                   **subsection (a); or**

16                   **(2) fails to provide the documentation described in subdivision**  
 17                   **(1), the child care ministry shall cease operation as required**  
 18                   **by the written notice and order issued under subsection (a).**

19           **(c) A child care ministry that violates this section is subject to**  
 20           **action under IC 12-17.2-4-29 or IC 12-17.2-5-29.**

21           SECTION 28. IC 12-17.2-6-19 IS ADDED TO THE INDIANA  
 22           CODE AS A NEW SECTION TO READ AS FOLLOWS  
 23           [EFFECTIVE JULY 1, 2013]: **Sec. 19. Except as provided in section**  
 24           **17 or 29 of this chapter, the division shall give a child care ministry**  
 25           **thirty (30) calendar days written notice by certified mail of an**  
 26           **enforcement action against the child care ministry. The child care**  
 27           **ministry shall also be provided an opportunity for an informal**  
 28           **meeting with the division. The child care ministry must request the**  
 29           **meeting within ten (10) working days after receipt of the certified**  
 30           **notice.**

31           SECTION 29. IC 12-17.2-6-20 IS ADDED TO THE INDIANA  
 32           CODE AS A NEW SECTION TO READ AS FOLLOWS  
 33           [EFFECTIVE JULY 1, 2013]: **Sec. 20. (a) An administrative hearing**  
 34           **concerning the decision of the division to impose a sanction under**  
 35           **this chapter shall be provided upon a written request by the child**  
 36           **care ministry. The request must be made within thirty (30)**  
 37           **calendar days after the child care ministry receives an order or**  
 38           **notice under section 17 or 19 of this chapter. The written request**

1 must be made separately from an informal meeting request made  
2 under section 19 of this chapter.

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

5 SECTION 30. IC 12-17.2-6-21 IS ADDED TO THE INDIANA  
6 CODE AS A NEW SECTION TO READ AS FOLLOWS  
7 [EFFECTIVE JULY 1, 2013]: **Sec. 21. A hearing requested under**  
8 **section 20 of this chapter shall be held in accordance with**  
9 **IC 4-21.5-3.**

10 SECTION 31. IC 12-17.2-6-22 IS ADDED TO THE INDIANA  
11 CODE AS A NEW SECTION TO READ AS FOLLOWS  
12 [EFFECTIVE JULY 1, 2013]: **Sec. 22. The division shall issue a**  
13 **decision within sixty (60) calendar days after the conclusion of a**  
14 **hearing held under section 20 of this chapter.**

15 SECTION 32. IC 12-17.2-6-23 IS ADDED TO THE INDIANA  
16 CODE AS A NEW SECTION TO READ AS FOLLOWS  
17 [EFFECTIVE JULY 1, 2013]: **Sec. 23. If a child care ministry's**  
18 **registration is suspended, the child care ministry shall cease**  
19 **operation and may not display the registration.**

20 SECTION 33. IC 12-17.2-6-24 IS ADDED TO THE INDIANA  
21 CODE AS A NEW SECTION TO READ AS FOLLOWS  
22 [EFFECTIVE JULY 1, 2013]: **Sec. 24. To reinstate a suspended**  
23 **registration, the following must occur:**

24 (1) **The child care ministry must, within thirty (30) days after**  
25 **receiving notice of the suspension, submit a plan of corrective**  
26 **action to the division for approval.**

27 (2) **The plan must outline the steps and timetable for**  
28 **immediate correction of the violations that caused the division**  
29 **to suspend the registration.**

30 (3) **The division must approve the plan.**

31 SECTION 34. IC 12-17.2-6-25 IS ADDED TO THE INDIANA  
32 CODE AS A NEW SECTION TO READ AS FOLLOWS  
33 [EFFECTIVE JULY 1, 2013]: **Sec. 25. Following the suspension of**  
34 **a child care ministry's registration, the division shall do one (1) of**  
35 **the following:**

36 (1) **Reinstate the registration.**

37 (2) **Revoke the registration.**

38 (3) **Issue to the child care ministry a new registration.**

1           **(4) Deny the child care ministry's reapplication for a**  
2           **registration.**

3           SECTION 35. IC 12-17.2-6-26 IS ADDED TO THE INDIANA  
4           CODE AS A NEW SECTION TO READ AS FOLLOWS  
5           [EFFECTIVE JULY 1, 2013]: **Sec. 26. A child care ministry shall**  
6           **cease operation when the registration of the child care ministry is**  
7           **revoked.**

8           SECTION 36. IC 12-17.2-6-27 IS ADDED TO THE INDIANA  
9           CODE AS A NEW SECTION TO READ AS FOLLOWS  
10          [EFFECTIVE JULY 1, 2013]: **Sec. 27. (a) After a child care**  
11          **ministry's registration is revoked or suspended, the division shall**  
12          **publish notice of the revocation or suspension under IC 5-3-1 and**  
13          **notify in writing each person responsible for a child in the care of**  
14          **the child care ministry that the registration has been revoked or**  
15          **suspended.**

16          **(b) The written notice shall be sent to the last known address of**  
17          **each person responsible for a child in the care of the child care**  
18          **ministry and shall state that the registration of the child care**  
19          **ministry has been revoked or suspended.**

20          SECTION 37. IC 12-17.2-6-28 IS ADDED TO THE INDIANA  
21          CODE AS A NEW SECTION TO READ AS FOLLOWS  
22          [EFFECTIVE JULY 1, 2013]: **Sec. 28. (a) A final decision of the**  
23          **division made after a hearing under this chapter is subject to**  
24          **judicial review under IC 4-21.5-5.**

25          **(b) This chapter does not preclude a child care ministry from**  
26          **filing a petition under IC 12-17.2-7 in relation to an order of the**  
27          **division under section 17 of this chapter.**

28          SECTION 38. IC 12-17.2-6-29 IS ADDED TO THE INDIANA  
29          CODE AS A NEW SECTION TO READ AS FOLLOWS  
30          [EFFECTIVE JULY 1, 2013]: **Sec. 29. (a) The division shall**  
31          **investigate a report of an unregistered child care ministry and**  
32          **report the division's findings to the attorney general and to the**  
33          **division's attorney and the prosecuting attorney in the county**  
34          **where the child care ministry is located.**

35          **(b) The attorney general or the division's attorney may do the**  
36          **following:**

37                  **(1) Seek the issuance of a search warrant to assist in the**  
38                  **investigation.**

1           **(2) File an action for injunctive relief to stop the operation of**  
2           **a child care ministry if there is reasonable cause to believe**  
3           **that:**

4                 **(A) the child care ministry is operating without a**  
5                 **registration required under this article; or**

6                 **(B) the child care ministry's noncompliance with this**  
7                 **article and the rules adopted under this article creates an**  
8                 **imminent danger of serious bodily injury to a child or an**  
9                 **imminent danger to the health of a child.**

10           **(3) Seek in a civil action a civil penalty not to exceed one**  
11           **hundred dollars (\$100) a day for each day a child care**  
12           **ministry is operating without a registration required under**  
13           **this article.**

14           **(c) The division may provide for the removal of children from**  
15           **a child care ministry described in subsection (b).**

16           **(d) A child care ministry subject to injunctive relief under this**  
17           **section is entitled to an informal meeting with the division after the**  
18           **injunctive relief is ordered.**

19           **(e) The civil penalties collected under this section shall be**  
20           **deposited in the division of family resources child care fund**  
21           **established by IC 12-17.2-2-3.**

22           **(f) Section 34 of this chapter does not apply to the civil penalties**  
23           **imposed under this section.**

24           SECTION 39. IC 12-17.2-6-30 IS ADDED TO THE INDIANA  
25           CODE AS A NEW SECTION TO READ AS FOLLOWS  
26           [EFFECTIVE JULY 1, 2013]: **Sec. 30. A court order granted under**  
27           **section 29(b)(2)(A) of this chapter expires when the child care**  
28           **ministry is issued a registration.**

29           SECTION 40. IC 12-17.2-6-31 IS ADDED TO THE INDIANA  
30           CODE AS A NEW SECTION TO READ AS FOLLOWS  
31           [EFFECTIVE JULY 1, 2013]: **Sec. 31. A court order granted under**  
32           **section 29(b)(2)(B) of this chapter expires upon the later of the**  
33           **following:**

34                 **(1) Sixty (60) calendar days after the order is issued.**

35                 **(2) When a final division decision is issued under sections 20**  
36                 **through 22 of this chapter if notice of an enforcement action**  
37                 **is issued under section 19 of this chapter.**

38           SECTION 41. IC 12-17.2-6-32 IS ADDED TO THE INDIANA

- 1 CODE AS A NEW SECTION TO READ AS FOLLOWS  
2 [EFFECTIVE JULY 1, 2013]: **Sec. 32. (a) The following constitute**  
3 **sufficient grounds for revocation of a registration:**
- 4 (1) **A determination by the department of child services of**  
5 **child abuse or neglect (as defined in IC 31-9-2-14) by:**
    - 6 (A) **the operator or director of the child care ministry;**
    - 7 (B) **an employee of the child care ministry who has direct**  
8 **contact, on a regular and continuous basis, with children**  
9 **who are under the direct supervision of the child care**  
10 **ministry; or**
    - 11 (C) **a volunteer of the child care ministry who has direct**  
12 **contact, on a regular and continuous basis, with children**  
13 **who are under the direct supervision of the child care**  
14 **ministry.**
  - 15 (2) **A criminal conviction of an employee of the child care**  
16 **ministry who has direct contact, on a regular and continuous**  
17 **basis, with children who are under the direct supervision of**  
18 **the child care ministry, or a volunteer of the child care**  
19 **ministry who has direct contact, on a regular and continuous**  
20 **basis, with children who are under the direct supervision of**  
21 **the child care ministry, of any of the following:**
    - 22 (A) **A felony.**
    - 23 (B) **A misdemeanor related to the health or safety of a**  
24 **child.**
    - 25 (C) **A misdemeanor for operating a child care center**  
26 **without a license under IC 12-17.2-4-35.**
    - 27 (D) **A misdemeanor for operating a child care home**  
28 **without a license under IC 12-17.2-5-35.**
  - 29 (3) **A determination by the division that the child care**  
30 **ministry made false statements in the child care ministry's:**
    - 31 (A) **application for registration; or**
    - 32 (B) **records required by the division.**
  - 33 (4) **The child care ministry fails to correct a problem**  
34 **identified by the division within the period required by the**  
35 **division.**
  - 36 (5) **Credible allegations of fraud have been made against the**  
37 **child care ministry, as determined by the division.**
  - 38 (6) **Criminal charges of welfare fraud have been filed against**

- 1           **the child care ministry.**
- 2           **(7) Allegations of welfare fraud committed by the child care**
- 3           **ministry have been substantiated by the division.**
- 4           **(8) A determination by the division that the child care**
- 5           **ministry previously operated a:**
  - 6               **(A) child care center without a license under IC 12-17.2-4;**
  - 7               **or**
  - 8               **(B) child care home without a license under IC 12-17.2-5.**
- 9           **(b) Notwithstanding subsection (a)(2), if:**
  - 10               **(1) a registration is revoked due to a criminal conviction of an**
  - 11               **employee or a volunteer of the child care ministry; and**
  - 12               **(2) the division determines that the employee or volunteer has**
  - 13               **been dismissed by the child care ministry;**
- 14           **the criminal conviction of the former employee or former**
- 15           **volunteer does not require revocation of the child care ministry's**
- 16           **registration.**

17           SECTION 42. IC 12-17.2-6-33 IS ADDED TO THE INDIANA  
 18           CODE AS A NEW SECTION TO READ AS FOLLOWS  
 19           [EFFECTIVE JULY 1, 2013]: **Sec. 33. (a) A child care ministry shall**  
 20           **operate in compliance with the rules established under this article**  
 21           **and is subject to the disciplinary sanctions under subsection (b) if**  
 22           **the division finds that the child care ministry has violated this**  
 23           **article.**

24           **(b) The division may impose any of the following sanctions when**  
 25           **the division finds that a child care ministry has committed a**  
 26           **violation under subsection (a):**

- 27               **(1) After complying with the procedural provisions in sections**
- 28               **19 through 22 of this chapter:**
  - 29                   **(A) suspend the child care ministry's registration for not**
  - 30                   **more than six (6) months; or**
  - 31                   **(B) revoke the child care ministry's registration.**
- 32               **(2) Seek civil remedies under section 29 of this chapter.**

33           SECTION 43. IC 12-17.2-6-34 IS ADDED TO THE INDIANA  
 34           CODE AS A NEW SECTION TO READ AS FOLLOWS  
 35           [EFFECTIVE JULY 1, 2013]: **Sec. 34. (a) In addition to the other**  
 36           **penalties imposed under this chapter, the division may impose a**  
 37           **civil penalty of not more than one thousand dollars (\$1,000) for a**  
 38           **violation of this article.**

1           **(b) The division shall deposit the civil penalties collected under**  
2 **this section in the division of family resources child care fund**  
3 **established by IC 12-17.2-2-3.**

4           SECTION 44. IC 12-17.2-6-35 IS ADDED TO THE INDIANA  
5 CODE AS A NEW SECTION TO READ AS FOLLOWS  
6 [EFFECTIVE JULY 1, 2013]: **Sec. 35. A person who knowingly or**  
7 **intentionally violates this chapter commits a Class B misdemeanor.**

8           SECTION 45. IC 12-17.2-6-36 IS ADDED TO THE INDIANA  
9 CODE AS A NEW SECTION TO READ AS FOLLOWS  
10 [EFFECTIVE JULY 1, 2013]: **Sec. 36. (a) The department of child**  
11 **services shall conduct an investigation of a claim of abuse or**  
12 **neglect in a child care ministry.**

13           **(b) After an investigation under subsection (a), the department**  
14 **of child services shall make a determination of whether abuse or**  
15 **neglect occurred at the child care ministry.**

16           **(c) If the department of child services makes a determination**  
17 **under IC 31-33-8-12 that abuse or neglect at the child care**  
18 **ministry is substantiated, the department shall send a copy of its**  
19 **report to the appropriate office of the division.**

20           SECTION 46. IC 12-17.2-7 IS ADDED TO THE INDIANA CODE  
21 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE  
22 JULY 1, 2013]:

23           **Chapter 7. Judicial Review**

24           **Sec. 1. If a child care provider receives an order from the**  
25 **division requiring a:**

- 26           **(1) child care center to cease operation under**  
27 **IC 12-17.2-4-18.7;**
- 28           **(2) child care home to cease operation under**  
29 **IC 12-17.2-5-18.7; or**
- 30           **(3) child care ministry to cease operation under**  
31 **IC 12-17.2-6-17;**

32 **the child care provider may petition the circuit court in the county**  
33 **in which the child care provider operates for a judicial review of**  
34 **the order.**

35           **Sec. 2. A petition for judicial review filed under section 1 of this**  
36 **chapter must:**

- 37           **(1) be filed within fifteen (15) days after the date on which the**  
38 **order is issued;**

- 1           **(2) be served upon the division in the manner provided for the**
- 2           **service of summons in a civil action; and**
- 3           **(3) set forth allegations and supporting facts that the division**
- 4           **acted in an arbitrary and capricious manner in issuing the**
- 5           **order.**

6           **Sec. 3. A circuit court reviewing a petition under this chapter**  
 7           **may require the division and the child care provider to provide**  
 8           **copies of all records produced in the investigation of the child care**  
 9           **provider and the issuance of the order.**

10          **Sec. 4. A circuit court shall provide notice to the division and the**  
 11          **child care provider of:**

- 12           **(1) all deadlines for submission of records to the court; and**
- 13           **(2) all hearings regarding the petition.**

14          **Sec. 5. If the court finds that the division's issuance of an order**  
 15          **described in section 1 of this chapter is arbitrary or capricious, the**  
 16          **court may:**

- 17           **(1) order the division to rescind the order;**
- 18           **(2) order the division to reinvestigate the child care provider;**
- 19           **or**
- 20           **(3) order that the child care provider remain open pending**  
 21           **the division's reinvestigation of the provider.**

22          SECTION 47. IC 35-51-12-1, AS AMENDED BY P.L.6-2012,  
 23          SECTION 239, IS AMENDED TO READ AS FOLLOWS  
 24          [EFFECTIVE JULY 1, 2013]: Sec. 1. The following statutes define  
 25          crimes in IC 12:

- 26           IC 12-10-13-20 (Concerning long term care ombudsman
- 27           program).
- 28           IC 12-11-13-16 (Concerning statewide waiver ombudsman).
- 29           IC 12-13-14-4.5 (Concerning electronic benefits transfer).
- 30           IC 12-14-22-8 (Concerning family assistance services).
- 31           IC 12-15-24-2 (Concerning Medicaid).
- 32           IC 12-15-35-44 (Concerning Medicaid).
- 33           IC 12-17.2-4-35 (Concerning day care regulation).
- 34           IC 12-17.2-5-35 (Concerning day care regulation).
- 35           **IC 12-17.2-6-35 (Concerning day care regulation).**
- 36           IC 12-17.6-6-12 (Concerning children's health insurance
- 37           program).
- 38           IC 12-20-7-6 (Concerning township assistance).

- 1 IC 12-20-25-55 (Concerning township assistance).
- 2 IC 12-24-17-3 (Concerning state institutions).
- 3 IC 12-24-17-6 (Concerning state institutions).
- 4 IC 12-24-17-7 (Concerning state institutions).
- 5 IC 12-32-1-7 (Concerning verifications of eligibility for public
- 6 benefits).

7 SECTION 48. [EFFECTIVE JULY 1, 2013] **(a) The committee on**  
 8 **child care established by IC 12-17.2-3.3-2 shall, during the interim**  
 9 **in 2013 between sessions of the general assembly, study and make**  
 10 **recommendations related to child care including:**

- 11 (1) **child care standards that are inconsistent between the**
- 12 **various types of child care providers;**
- 13 (2) **the appropriate minimum staff to child ratios for the**
- 14 **various types of child care providers;**
- 15 (3) **the appropriate training and qualifications for child care**
- 16 **staff;**
- 17 (4) **the differences in regulations applying to the various types**
- 18 **of child care providers; and**
- 19 (5) **any other issue relevant to a comprehensive reform of**
- 20 **child care standards and regulations.**

21 **(b) This SECTION expires December 31, 2013."**

22 Renumber all SECTIONS consecutively.

(Reference is to SB 305 as reprinted February 26, 2013, Technical Correction.)

**and when so amended that said bill do pass.**

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Representative Kubacki