

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 ENROLLED ACT No. 1494

AN ACT to amend the Indiana Code concerning human services.

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

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.

SECTION 2. 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:**

- (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).**

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- (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) 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).
- (19) A felony committed in another jurisdiction that is substantially similar to a felony in this section.
- (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.**

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

- (1) Administer the licensing and monitoring of child care centers or child care homes in accordance with this article.
- (2) Ensure that a national criminal history background check of the applicant following is completed through the state police department under IC 10-13-3-39 before issuing a 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



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juvenile court to adult court.

(3) Ensure that a **national** criminal history background check of a ~~child care ministry applicant for registration~~ **the following** is completed **through the state police department under IC 10-13-3-39** before registering ~~the~~ a child care 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.**

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

(5) Cooperate with governing bodies of child care centers and child care homes and their staffs to improve standards of child care.

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

(7) Deposit all license application fees collected under section 2 of this chapter in the division of family resources child care fund established by ~~IC 12-17.2-2-3~~ **section 3 of this chapter.**

(8) Require each child care center or child care home to record proof of a child's date of birth before accepting the child. A child's date of birth may be proven by the child's original birth certificate or other reliable proof of the child's date of birth, including a duly attested transcript of a birth certificate.

(9) Provide an Internet site through which members of the public may obtain the following information:

(A) Information concerning violations of this article by a licensed child care provider, including:

(i) the identity of the child care provider;

(ii) the date of the violation; and

(iii) action taken by the division in response to the violation.

(B) Current status of a child care provider's license.

(C) Other relevant information.

The Internet site may not contain the address of a child care home or information identifying an individual child. However, the site may include the county and ZIP code in which a child care home is located.

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

(A) a provider who operates a child care program in the

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provider's home as described in IC 12-17.2-3.5-5.5(b); and
 (B) a child care home licensed under IC 12-17.2-5;
 including practices to reduce the risk of sudden infant death
 syndrome.

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
 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**

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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:

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.**

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(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) A provider that meets the other eligibility requirements of this chapter is temporarily eligible to receive voucher payments until the ~~provider division~~ **provider division** receives the ~~limited national~~ **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~~ **(i) applied for the limited submitted; or**
- ~~(ii) required an individual described in subsection (a)(2) or (a)(3) to submit;~~ **(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

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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:

(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.

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(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 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**

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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;

~~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.**

SECTION 10. 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

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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~~ **receiving child care from** 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~~ **receiving child care from** the applicant, 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 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

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(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 11. 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 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~~ **receiving child care from** 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~~ **receiving child care from** 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**

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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 been dismissed by the licensee;

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

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**

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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 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.~~

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

SECTION 14. 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 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.

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(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~~ **receiving child care from** 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~~ **receiving child care from** 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:
 - (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

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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 15. 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~~ **receiving child care from** 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~~ **receiving child care from** 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 offense committed in another jurisdiction if the offense is directly or indirectly related to jeopardizing the health or safety of a child.**

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(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.

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

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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);
- (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

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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 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.

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Speaker of the House of Representatives

President of the Senate

President Pro Tempore

Governor of the State of Indiana

Date: _____ Time: _____

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