
SENATE BILL No. 305

DIGEST OF INTRODUCED BILL

Citations Affected: IC 4-21.5-2-6; IC 12-7-2; IC 12-17.2.

Synopsis: Child care regulation. Specifies requirements that must be met by a child care provider as a condition of eligibility to receive a federal Child Care and Development Fund voucher payment. Sets forth a disciplinary process for suspension or revocation of eligibility. Requires certain child care providers to obtain national criminal history background checks of individuals who are employed by or volunteer for a provider. (The introduced version of this bill was prepared by the committee on child care.)

Effective: July 1, 2013.

Taylor

January 8, 2013, read first time and referred to Committee on Health and Provider Services.

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First Regular Session 118th General Assembly (2013)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2012 Regular Session of the General Assembly.

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SENATE BILL No. 305



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

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

1 SECTION 1. IC 4-21.5-2-6, AS AMENDED BY P.L.219-2007,
2 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2013]: Sec. 6. This article does not apply to the formulation,
4 issuance, or administrative review (but does apply to the judicial
5 review and civil enforcement) of any of the following:

6 (1) Except as provided in **IC 12-17.2-3.5-17**, IC 12-17.2-4-18.7,
7 and IC 12-17.2-5-18.7, determinations by the division of family
8 resources and the department of child services.

9 (2) Determinations by the alcohol and tobacco commission.

10 (3) Determinations by the office of Medicaid policy and planning
11 concerning recipients and applicants of Medicaid. However, this
12 article does apply to determinations by the office of Medicaid
13 policy and planning concerning providers.

14 SECTION 2. IC 12-7-2-131.8 IS ADDED TO THE INDIANA
15 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
16 [EFFECTIVE JULY 1, 2013]: **Sec. 131.8. "National criminal history
17 background check", for purposes of IC 12-17.2, means a national**



1 **criminal history background check conducted by the state police**
 2 **department under IC 10-13-3-39.**

3 SECTION 3. IC 12-7-2-149.1, AS AMENDED BY P.L.143-2011,
 4 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 5 JULY 1, 2013]: Sec. 149.1. "Provider" means the following:

6 (1) For purposes of IC 12-10-7, the meaning set forth in
 7 IC 12-10-7-3.

8 (2) For purposes of the following statutes, an individual, a
 9 partnership, a corporation, or a governmental entity that is
 10 enrolled in the Medicaid program under rules adopted under
 11 IC 4-22-2 by the office of Medicaid policy and planning:

12 (A) IC 12-14-1 through IC 12-14-9.5.

13 (B) IC 12-15, except IC 12-15-32, IC 12-15-33, and
 14 IC 12-15-34.

15 (C) IC 12-17.6.

16 (3) Except as provided in ~~subdivision~~ **subdivisions (4) and (6)**,
 17 for purposes of IC 12-17.2, a person who operates a child care
 18 center or child care home under IC 12-17.2.

19 (4) For purposes of IC 12-17.2-3.5, a person that:

20 (A) provides child care; and

21 (B) is directly paid for the provision of the child care under the
 22 federal Child Care and Development Fund voucher program
 23 administered under 45 CFR 98 and 45 CFR 99.

24 The term does not include an individual who provides services to
 25 a person described in clauses (A) and (B), regardless of whether
 26 the individual receives compensation.

27 (5) For purposes of IC 12-21-1 through IC 12-29-2, an
 28 organization:

29 (A) that:

30 (i) provides mental health services, as defined under 42
 31 U.S.C. 300x-2(c);

32 (ii) provides addiction services; or

33 (iii) provides children's mental health services;

34 (B) that has entered into a provider agreement with the
 35 division of mental health and addiction under IC 12-21-2-7 to
 36 provide services in the least restrictive, most appropriate
 37 setting; and

38 (C) that is operated by one (1) of the following:

39 (i) A city, town, county, or other political subdivision of the
 40 state.

41 (ii) An agency of the state or of the United States.

42 (iii) A political subdivision of another state.

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- 1 (iv) A hospital owned or operated by a unit of government
- 2 or a building authority that is organized for the purpose of
- 3 constructing facilities to be leased to units of government.
- 4 (v) A corporation incorporated under IC 23-7-1.1 (before its
- 5 repeal August 1, 1991) or IC 23-17.
- 6 (vi) An organization that is exempt from federal income
- 7 taxation under Section 501(c)(3) of the Internal Revenue
- 8 Code.
- 9 (vii) A university or college.

10 **(6) For purposes of IC 12-17.2-2-10, the following:**

11 **(A) A person described in subdivision (4).**

12 **(B) A child care center licensed under IC 12-17.2-4.**

13 **(C) A child care home licensed under IC 12-17.2-5.**

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

- 18 (1) Administer the licensing and monitoring of child care centers
- 19 or child care homes in accordance with this article.
- 20 (2) Ensure that a national criminal history background check of
- 21 the applicant is completed ~~through the state police department~~
- 22 ~~under IC 10-13-3-39~~ before issuing a license.
- 23 (3) Ensure that a **national** criminal history background check of
- 24 a child care ministry applicant for registration is completed before
- 25 registering the child care ministry.
- 26 (4) Provide for the issuance, denial, suspension, and revocation of
- 27 licenses.
- 28 (5) Cooperate with governing bodies of child care centers and
- 29 child care homes and their staffs to improve standards of child
- 30 care.
- 31 (6) Prepare at least biannually a directory of licensees with a
- 32 description of the program capacity and type of children served
- 33 that will be distributed to the legislature, licensees, and other
- 34 interested parties as a public document.
- 35 (7) Deposit all license application fees collected under section 2
- 36 of this chapter in the division of family resources child care fund
- 37 established by ~~IC 12-17.2-2-3~~. **section 3 of this chapter.**
- 38 (8) Require each child care center or child care home to record
- 39 proof of a child's date of birth before accepting the child. A child's
- 40 date of birth may be proven by the child's original birth certificate
- 41 or other reliable proof of the child's date of birth, including a duly
- 42 attested transcript of a birth certificate.

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

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

5 (i) the identity of the child care provider;

6 (ii) the date of the violation; and

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

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

9 (C) Other relevant information.

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

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

16 (A) a provider who operates a child care program ~~in the~~
17 ~~provider's home~~ as described in ~~IC 12-17.2-3.5-5.5(b);~~
18 **IC 12-17.2-3.5-5.5;** and

19 (B) a child care home licensed under IC 12-17.2-5;

20 including practices to reduce the risk of sudden infant death
21 syndrome.

22 SECTION 5. IC 12-17.2-2-10, AS AMENDED BY P.L.145-2006,
23 SECTION 94, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
24 JULY 1, 2013]: Sec. 10. (a) The division may grant a variance or
25 waiver of a rule governing ~~child care centers, or child care homes: a~~
26 **provider.** A variance or waiver granted under this section must
27 promote statewide practices and must protect the rights of persons
28 affected by this article.

29 (b) The division may grant a variance to a rule if ~~an applicant for a~~
30 ~~license or a licensee under this chapter~~ **provider** does the following:

31 (1) Submits to the division a written request for the variance in
32 the form and manner specified by the division.

33 (2) Documents that compliance with an alternative method of
34 compliance approved by the division will not be adverse to the
35 health, safety, or welfare of a child receiving services from the
36 applicant for the variance, as determined by the division.

37 (c) A variance granted under subsection (b) must be conditioned
38 upon compliance with the alternative method approved by the division.
39 Noncompliance constitutes the violation of a rule of the division and
40 may be the basis for revoking the variance.

41 (d) The division may grant a waiver of a rule if ~~an applicant for a~~
42 ~~license or a licensee under this chapter~~ **provider** does the following:

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- 1 (1) Submits to the division a written request for the waiver in the
- 2 form and manner specified by the division.
- 3 (2) Documents that compliance with the rule specified in the
- 4 application for the waiver will create an undue hardship on the
- 5 applicant for the waiver, as determined by the division.
- 6 (3) Documents that the applicant for the waiver will be in
- 7 substantial compliance with the rules adopted by the division after
- 8 the waiver is granted, as determined by the division.
- 9 (4) Documents that noncompliance with the rule specified in the
- 10 application for a waiver will not be adverse to the health, safety,
- 11 or welfare of a child receiving services from the applicant for the
- 12 waiver, as determined by the division.

13 (e) Except for a variance or waiver of a rule governing child care
 14 homes, a variance or waiver of a rule under this section that conflicts
 15 with a building rule or fire safety rule adopted by the fire prevention
 16 and building safety commission is not effective until the variance or
 17 waiver is approved by the fire prevention and building safety
 18 commission.

19 SECTION 6. IC 12-17.2-3.5-1, AS AMENDED BY P.L.124-2007,
 20 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 21 JULY 1, 2013]: Sec. 1. (a) This chapter applies to all child care
 22 providers regardless of whether a provider is required to be licensed or
 23 registered under this article. However, **except as provided in section**
 24 **4(b) of this chapter**, a child care provider that is licensed under
 25 IC 12-17.2-4 or IC 12-17.2-5 is considered to be in compliance with
 26 this chapter. **unless the child care provider is found to be in violation**
 27 **of this chapter.**

28 (b) If a school age child care program that is:
 29 (1) described in IC 12-17.2-2-8(10); and
 30 (2) located in a school building;
 31 is determined to be in compliance with a requirement of this chapter by
 32 another state regulatory authority, the school age child care program is
 33 considered to be in compliance with the requirement under this
 34 chapter.

35 SECTION 7. IC 12-17.2-3.5-4 IS AMENDED TO READ AS
 36 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 4. (a) A provider who:

- 37 (1) has been convicted of a:
 - 38 (A) felony;
 - 39 (B) misdemeanor related to:
 - 40 (i) the health or safety of a child; or
 - 41 (ii) **welfare fraud;**
 - 42 (C) misdemeanor for operating a child care center without a

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- 1 license under IC 12-17.2-4-35; or
 2 (D) misdemeanor for operating a child care home without a
 3 license under IC 12-17.2-5-35;
 4 (2) ~~employs or otherwise~~ allows an individual who has been
 5 convicted of a crime specified under subdivision (1) to:
 6 (A) serve as a ~~caregiver to a child in an employee or~~
 7 **volunteer in the facility where the provider's care; provider**
 8 **operates a child care program;** or
 9 (B) reside with the provider, if the provider operates a child
 10 care program in the provider's home; ~~or~~
 11 **(3) has had a revocation of eligibility under this chapter**
 12 **during the immediately preceding two (2) years; or**
 13 ~~(4) fails to meet the requirements set forth in sections 5~~
 14 ~~through 12.1~~ of this chapter;

15 is ineligible to receive a voucher payment.

16 **(b) A provider whose:**

- 17 **(1) license under IC 12-17.2-4 or IC 12-17.2-5; or**
 18 **(2) compliance with this chapter;**

19 **is subject to an enforcement action is ineligible to receive a voucher**
 20 **payment, regardless of whether the provider meets the**
 21 **requirements of this chapter, until the outcome of any proceeding**
 22 **under IC 4-21.5 reflects a final determination that the provider's**
 23 **license or eligibility is in good standing.**

24 SECTION 8. IC 12-17.2-3.5-4.1 IS AMENDED TO READ AS
 25 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 4.1. (a) This section
 26 applies to the following:

- 27 (1) A provider, if the provider is an individual.
 28 (2) If a provider operates a child care program in the provider's
 29 home, an individual who resides with the provider and who is at
 30 least eighteen (18) years of age.
 31 (3) An individual who:
 32 (A) is employed; or
 33 (B) volunteers;

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

36 (b) If information used by the division under ~~IC 31-33-17-6(7)~~
 37 **IC 31-33-26-16(a)(10) or obtained by the division under section 27**
 38 **of this chapter** indicates that an individual described in subsection (a)
 39 has been named as ~~an alleged~~ a perpetrator, the following are ineligible
 40 to receive a voucher payment:

- 41 (1) The individual.
 42 (2) A provider in whose home the individual resides if the

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1 provider operates a child care program in the provider's home.

2 (3) A provider that:

3 (A) employs the individual; or

4 (B) allows the individual to volunteer;

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

7 SECTION 9. IC 12-17.2-3.5-5 IS AMENDED TO READ AS
8 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 5. (a) A provider shall
9 have

10 (1) working smoke detectors that meet the standards adopted by
11 rule for smoke detectors in licensed child care homes; and

12 (2) hot and cold running water

13 in the area of the facility where the provider operates a child care
14 program.

15 (b) A provider shall maintain compliance with food, health,
16 safety, and sanitation standards as determined by the division
17 under rules adopted by the division under section 15 of this chapter
18 or in accordance with a variance or waiver approved by the
19 division under IC 12-17.2-2-10.

20 (c) The food, health, safety, and sanitation standards adopted
21 under subsection (b) must include all of the following
22 requirements:

23 (1) Bathroom and hand washing.

24 (2) Safe conditions in and on the grounds.

25 (3) Maximum capacity limits for the number of children
26 receiving care.

27 (4) Nutrition.

28 (5) Daily activities.

29 (6) Safety of motor vehicles used to transport children.

30 SECTION 10. IC 12-17.2-3.5-5.5, AS AMENDED BY
31 P.L.162-2005, SECTION 2, IS AMENDED TO READ AS FOLLOWS
32 [EFFECTIVE JULY 1, 2013]: Sec. 5.5. (a) A provider shall ensure that
33 a child in the provider's care is continually supervised by a caregiver.

34 (b) A provider who operates a child care program in the provider's
35 home (including a child care home licensed under IC 12-17.2-5) and
36 who receives a voucher payment under this chapter that cares for
37 children who are less than twelve (12) months of age shall:

38 (1) complete the training course provided or approved by the
39 division under IC 12-17.2-2-1(10) concerning safe sleeping
40 practices; and

41 (2) ensure that all caregivers of children who are less than
42 twelve (12) months of age follow safe sleeping practices.

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- (c) A provider that cares for:**
 - (1) not more than sixteen (16) children at a facility where the provider operates a child care program shall maintain a ratio of children to caregivers in the same proportions as the child to staff ratios that are required for a child care home under IC 12-17.2-5; and**
 - (2) more than sixteen (16) children at a facility where the provider operates a child care program shall maintain a ratio of children to caregivers in the same proportions as the child to staff ratios that are required for a child care center under IC 12-17.2-4.**

SECTION 11. IC 12-17.2-3.5-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 7. **(a)** A provider shall have written plans for notifying parents regarding the following:

- (1) Illness, serious injury, or death of the provider.
- (2) Care in an emergency.
- (3) Emergency evacuation.

The plan required under subdivision (3) must be posted in a conspicuous location in the facility where the provider operates a child care program.

- (b) A provider shall:**
 - (1) maintain a written child discipline policy;**
 - (2) ensure that all employees and volunteers follow the child discipline policy;**
 - (3) provide the parent or legal guardian of each child cared for by the provider a written copy of the child discipline policy; and**
 - (4) maintain in each child's file a copy of the child discipline policy that has been signed by the parent or legal guardian described in subdivision (3).**

(c) A provider shall allow unscheduled visits by a parent or legal guardian to a facility where the provider operates a child care program during the hours the child care program is in operation.

SECTION 12. IC 12-17.2-3.5-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 8. (a) At least one (1) adult individual who maintains annual certification in a course of cardiopulmonary resuscitation applicable to all age groups of children cared for by a provider shall be present at all times when a child is in the care of the provider.

- (b) The following apply to an individual who**
 - (+) is employed or**
 - (-) volunteers**

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as a caregiver at a facility where a provider operates a child care program:

(1) The individual shall maintain current certification in first aid applicable to all age groups of children cared for by the provider.

(2) If the individual is:

(A) at least eighteen (18) years of age, the individual may act as a caregiver without supervision of another caregiver; or

(B) less than eighteen (18) years of age, the individual may act as a caregiver only if the individual:

(i) is at least fourteen (14) years of age; and

(ii) is, at all times when child care is provided, directly supervised by a caregiver who is at least eighteen (18) years of age.

(3) Unless the provider is related to all children in the care of the provider, the individual shall annually receive at least twelve (12) hours of continuing education approved by the division and related to the development and care of children of the same age as the age of children who receive care at the facility.

(4) Before beginning employment or volunteer duties, the individual must receive a formal orientation to the facility and the child care program.

(5) Not more than three (3) months after the individual begins employment or volunteer duties, the individual must receive training approved by the division concerning child abuse detection and prevention.

(6) Not more than three (3) months after beginning employment or volunteer duties caring for children who do not yet attend first grade, the individual must receive training approved by the division concerning the department of education's early learning guidelines.

(c) A provider shall:

(1) maintain at the facility where the provider operates a child care program documentation of all training required by this section; and

(2) make the documentation available to the division upon request.

SECTION 13. IC 12-17.2-3.5-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 9. (a) A provider shall have at least one (1) working telephone in each facility where the provider operates a child care program.

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1 **(b) The telephone required by subsection (a) must be compatible**
2 **with an automated time and attendance tracking system approved**
3 **by the division.**

4 SECTION 14. IC 12-17.2-3.5-10 IS AMENDED TO READ AS
5 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 10. (a) A facility where
6 a provider operates a child care program must have two (2) exits that:

- 7 (1) do not require passage through a:
 - 8 (A) garage; or
 - 9 (B) storage area;
- 10 where hazardous materials are stored;
- 11 (2) are not windows;
- 12 (3) are on different sides of the facility;
- 13 (4) are not blocked; and
- 14 (5) are operable from the inside without the use of a key or any
15 special knowledge.

16 **(b) Beginning July 1, 2016, in addition to the requirements**
17 **specified in subsection (a), a room:**

- 18 **(1) in which children who are not more than twenty-four (24)**
19 **months of age receive care; and**
- 20 **(2) that is located in a facility where a provider operates a**
21 **child care program;**

22 **must have at least one (1) exit that does not require the use of**
23 **stairs.**

24 **(c)** A provider shall:

- 25 (1) conduct monthly documented fire drills:
 - 26 (A) in accordance with the rules of the fire prevention and
27 building safety commission; and
 - 28 (B) that include complete evacuation of all:
 - 29 (i) children; and
 - 30 (ii) adults who provide child care;
- 31 in the facility;
- 32 (2) maintain documentation of all fire drills conducted during the
33 immediately preceding twelve (12) month period, including:
 - 34 (A) the date and time of the fire drill;
 - 35 (B) the name of the individual who conducted the fire drill;
 - 36 (C) the weather conditions at the time of the fire drill; and
 - 37 (D) the amount of time required to fully evacuate the facility;
 - 38 and
- 39 (3) maintain a two and one-half (2 1/2) pound or greater ABC
40 multiple purpose fire extinguisher:
 - 41 (A) on each floor of the facility; and
 - 42 (B) in the kitchen area of the facility;

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1 in each facility where the provider operates a child care program.

2 **(d) Beginning July 1, 2016, a facility where a provider operates**
3 **a child care program must meet the following requirements:**

4 **(1) If not more than sixteen (16) children are cared for at the**
5 **facility, the facility must have working smoke detectors and**
6 **means of egress that meet the requirements that apply to child**
7 **care homes under IC 12-17.2-5.**

8 **(2) If more than sixteen (16) children are cared for at the**
9 **facility, the facility must meet the requirements specified in**
10 **the building rules and fire safety rules adopted by the fire**
11 **prevention and building safety commission.**

12 **(3) If more than one (1) facility where a provider operates a**
13 **child care program is located in a single structure, each**
14 **facility must:**

15 **(A) be separated from each other facility by walls and**
16 **doors with a two (2) hour fire resistance rating; and**

17 **(B) individually meet all requirements of this section.**

18 SECTION 15. IC 12-17.2-3.5-11 IS AMENDED TO READ AS
19 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 11. **(a)** A provider shall
20 provide for a safe environment by ensuring that the following items are
21 placed in areas that are inaccessible to the children in the provider's
22 care:

23 (1) Firearms and ammunition.

24 (2) Poisons, chemicals, bleach, and cleaning materials.

25 **(3) Medications.**

26 **(4) Other items determined by the division in rules adopted**
27 **under section 15 of this chapter to pose a danger to children.**

28 **(b) A provider shall do the following with respect to**
29 **transporting children away from the facility where the provider**
30 **operates a child care program:**

31 **(1) Obtain written permission from the child's parent or legal**
32 **guardian to transport the child.**

33 **(2) Ensure that the child is transported only by an employee**
34 **or a volunteer who:**

35 **(A) is at least eighteen (18) years of age;**

36 **(B) holds a valid driver's license; and**

37 **(C) transports the child in a properly licensed and insured**
38 **motor vehicle.**

39 SECTION 16. IC 12-17.2-3.5-12, AS AMENDED BY
40 P.L.142-2006, SECTION 2, IS AMENDED TO READ AS FOLLOWS
41 [EFFECTIVE JULY 1, 2013]: Sec. 12. **(a)** Except as provided in
42 subsection (f), a provider shall, at no expense to the state, maintain and

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

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

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

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

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

23 not listed on a ~~limited~~ **national** criminal history **background check**
 24 obtained under subsection (a) regarding any of the persons listed in
 25 subsection (a).

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

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

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- 1 license under IC 12-17.2-4-35; or
- 2 (D) misdemeanor for operating a child care home without a
- 3 license under IC 12-17.2-5-35.
- 4 (d) A provider is ineligible to receive a voucher payment if an
- 5 individual for whom a **limited national criminal history background**
- 6 **check** is required under this section has been convicted of a:
- 7 (1) felony;
- 8 (2) misdemeanor related to the health or safety of a child;
- 9 (3) misdemeanor for operating a child care center without a
- 10 license under IC 12-17.2-4-35; or
- 11 (4) misdemeanor for operating a child care home without a
- 12 license under IC 12-17.2-5-35;

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

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

20 (f) The state police department may not charge a church or religious
 21 society any fees or costs for responding to a request for a release of a
 22 **limited national criminal history background check** record of a
 23 prospective or current employee or a prospective or current volunteer
 24 of a child care ministry registered under IC 12-17.2-6 if the conditions
 25 set forth in IC 10-13-3-36(f) are met.

26 SECTION 17. IC 12-17.2-3.5-14 IS REPEALED [EFFECTIVE
 27 JULY 1, 2013]. ~~Sec. 14. (a) Notice of a determination made under this~~
 28 ~~chapter must be provided under IC 4-21.5-3-6.~~

29 (b) A person affected by a determination made under this chapter
 30 may seek administrative review under IC 4-21.5-3-7.

31 SECTION 18. IC 12-17.2-3.5-16 IS ADDED TO THE INDIANA
 32 CODE AS A NEW SECTION TO READ AS FOLLOWS
 33 [EFFECTIVE JULY 1, 2013]: **Sec. 16. (a) An employee or a**
 34 **volunteer shall immediately report to child protective services, the**
 35 **division, and local law enforcement authorities the employee's or**
 36 **volunteer's suspicion of physical abuse, sexual abuse, child neglect,**
 37 **or child exploitation of a child in the provider's care.**

38 (b) A provider shall immediately notify the division and the
 39 parent or legal guardian of a child in the care of the provider
 40 concerning:

- 41 (1) an injury of the child that requires medical attention;
- 42 (2) the death of the child; or

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(3) an emergency event involving the child.
SECTION 19. IC 12-17.2-3.5-17 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: **Sec. 17. (a) The division shall adopt rules under IC 4-22-2 to establish a list of violations of this article that would pose an immediate threat to the life or well-being of a child in the care of a provider.**

(b) If an employee or agent of the division determines that a violation described in subsection (a) exists, the division shall:

- (1) immediately suspend the provider's eligibility to receive a voucher payment under this chapter;**
- (2) issue an emergency or another temporary order under IC 4-21.5-4 requiring the provider to immediately cease operation of the child care program; and**
- (3) contact the parent or legal guardian of each child enrolled in the child care program to inform the parent or legal guardian:**
 - (A) that the division has issued an order to require the provider to cease operation of the child care program; and**
 - (B) of the reason for the order to cease operation;**

pending the outcome of proceedings conducted under sections 20 and 22 of this chapter.

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

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

SECTION 20. IC 12-17.2-3.5-18 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: **Sec. 18. The division may suspend a provider's eligibility to receive a voucher payment under this chapter for any of the following reasons:**

- (1) The provider fails to comply with this chapter.**
- (2) The provider refuses to allow, during normal business hours, the division or an agent of the division to inspect the facility where the provider operates a child care program.**
- (3) The provider is determined by the division to have made false statements in the provider's:**
 - (A) application for eligibility to receive a voucher payment; or**
 - (B) records required by the division;**

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- 1 under this chapter.
- 2 (4) The provider fails to correct a problem identified by the
- 3 division within the period required by the division.
- 4 (5) Three (3) or more problems occurring within a twelve (12)
- 5 month period are identified by the division, regardless of
- 6 whether the provider corrects the problems within the period
- 7 required by the division.
- 8 (6) Credible allegations of fraud have been made against the
- 9 provider, as determined by the division.
- 10 (7) Criminal charges of welfare fraud have been filed against
- 11 the provider.

12 SECTION 21. IC 12-17.2-3.5-19 IS ADDED TO THE INDIANA
 13 CODE AS A NEW SECTION TO READ AS FOLLOWS
 14 [EFFECTIVE JULY 1, 2013]: **Sec. 19.** The division may revoke a
 15 provider's eligibility to receive a voucher payment under this
 16 chapter for any of the following reasons:

- 17 (1) Any of the reasons for suspension described in section
- 18 18(1) through 18(5) of this chapter.
- 19 (2) Allegations of welfare fraud committed by the provider
- 20 have been substantiated by the division.

21 SECTION 22. IC 12-17.2-3.5-20 IS ADDED TO THE INDIANA
 22 CODE AS A NEW SECTION TO READ AS FOLLOWS
 23 [EFFECTIVE JULY 1, 2013]: **Sec. 20.** Except as provided in section
 24 17 of this chapter, the division shall give a provider thirty (30)
 25 calendar days written notice by certified mail of an enforcement
 26 action against the provider. The provider shall also be provided an
 27 opportunity for an informal meeting with the division. The
 28 provider must request the informal meeting within ten (10)
 29 working days after receipt of the certified notice.

30 SECTION 23. IC 12-17.2-3.5-21 IS ADDED TO THE INDIANA
 31 CODE AS A NEW SECTION TO READ AS FOLLOWS
 32 [EFFECTIVE JULY 1, 2013]: **Sec. 21.** (a) An administrative hearing
 33 concerning the decision of the division to impose a sanction under
 34 this chapter shall be provided upon a written request made by the
 35 provider. The request must be made within thirty (30) calendar
 36 days after the provider receives an order under section 17 of this
 37 chapter or a notice under section 20 of this chapter. The written
 38 request must be made separately from an informal meeting request
 39 made under section 20 of this chapter.

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

42 SECTION 24. IC 12-17.2-3.5-22 IS ADDED TO THE INDIANA

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1 CODE AS A NEW SECTION TO READ AS FOLLOWS
2 [EFFECTIVE JULY 1, 2013]: **Sec. 22. The division shall issue a**
3 **decision within sixty (60) calendar days after the conclusion of a**
4 **hearing held under section 21 of this chapter.**

5 SECTION 25. IC 12-17.2-3.5-23 IS ADDED TO THE INDIANA
6 CODE AS A NEW SECTION TO READ AS FOLLOWS
7 [EFFECTIVE JULY 1, 2013]: **Sec. 23. To reinstate a provider's**
8 **eligibility to receive a voucher payment under this chapter after**
9 **suspension, the following must occur:**

10 (1) **The provider must, within thirty (30) calendar days after**
11 **receiving notice of the suspension, submit a plan of corrective**
12 **action to the division for approval.**

13 (2) **The plan must outline the steps and timetable for**
14 **immediate correction of the violations that caused the division**
15 **to suspend the eligibility.**

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

17 SECTION 26. IC 12-17.2-3.5-24 IS ADDED TO THE INDIANA
18 CODE AS A NEW SECTION TO READ AS FOLLOWS
19 [EFFECTIVE JULY 1, 2013]: **Sec. 24. Following the suspension of**
20 **a provider's eligibility to receive a voucher payment under this**
21 **chapter, the division shall do one (1) of the following:**

22 (1) **Reinstate the eligibility.**

23 (2) **Except as provided in subdivision (3), extend the**
24 **suspension for not more than six (6) months.**

25 (3) **If criminal charges for welfare fraud are pending against**
26 **the provider, extend the suspension until the criminal matter**
27 **is resolved.**

28 (4) **Revoke the eligibility.**

29 SECTION 27. IC 12-17.2-3.5-25 IS ADDED TO THE INDIANA
30 CODE AS A NEW SECTION TO READ AS FOLLOWS
31 [EFFECTIVE JULY 1, 2013]: **Sec. 25. (a) After a provider's**
32 **eligibility to receive a voucher payment under this chapter is**
33 **revoked or suspended, the division shall publish notice of the**
34 **revocation or suspension under IC 5-3-1 and notify in writing each**
35 **parent or legal guardian of a child in the care of the provider that**
36 **the eligibility has been revoked or suspended, including the reason**
37 **for the revocation or suspension.**

38 (b) **The written notice shall be sent to the last known address of**
39 **each person responsible for a child in the care of the provider.**

40 SECTION 28. IC 12-17.2-3.5-26 IS ADDED TO THE INDIANA
41 CODE AS A NEW SECTION TO READ AS FOLLOWS
42 [EFFECTIVE JULY 1, 2013]: **Sec. 26. An administrative review and**

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1 **a hearing conducted under this chapter must be conducted under**
 2 **rules adopted by the division under IC 4-22-2.**

3 SECTION 29. IC 12-17.2-3.5-27 IS ADDED TO THE INDIANA
 4 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
 5 [EFFECTIVE JULY 1, 2013]: **Sec. 27. (a) Upon receiving notice of**
 6 **a claim of abuse or neglect in a facility where a provider operates**
 7 **a child care program, the department of child services shall:**

8 (1) **forward a copy of the notice to the division; and**

9 (2) **conduct an investigation of the claim.**

10 (b) **After an investigation under subsection (a), the department**
 11 **of child services shall make a determination of whether abuse or**
 12 **neglect occurred at the facility.**

13 (c) **If the department of child services makes a determination**
 14 **under IC 31-33-8-12 that abuse or neglect at the facility is**
 15 **substantiated, the department shall send a copy of the**
 16 **department's report to the appropriate office of the division.**

17 SECTION 30. IC 12-17.2-4-3, AS AMENDED BY P.L.145-2006,
 18 SECTION 97, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 19 JULY 1, 2013]: **Sec. 3. (a) An applicant must apply for a child care**
 20 **center license on forms provided by the division.**

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

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

25 (1) **has not been convicted of:**

26 (A) **a felony;**

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

28 (C) **a misdemeanor for operating a child care center without a**
 29 **license under section 35 of this chapter; or**

30 (D) **a misdemeanor for operating a child care home without a**
 31 **license under IC 12-17.2-5-35; and**

32 (2) **has not been charged with:**

33 (A) **a felony;**

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

35 (C) **a misdemeanor for operating a child care center without a**
 36 **license under section 35 of this chapter; or**

37 (D) **a misdemeanor for operating a child care home without a**
 38 **license under IC 12-17.2-5-35;**

39 **during the pendency of the application.**

40 (d) **An applicant must submit the necessary information, forms, or**
 41 **consents for the division to obtain a national criminal history**
 42 **background check on the applicant. through the state police department**

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1 ~~under IC 10-13-3-39.~~

2 (e) The applicant must do the following:

3 (1) Conduct a **national** criminal history **background** check of the
4 applicant's employees and volunteers.

5 (2) Maintain records of each criminal history check.

6 SECTION 31. IC 12-17.2-5-3, AS AMENDED BY P.L.145-2006,
7 SECTION 100, IS AMENDED TO READ AS FOLLOWS
8 [EFFECTIVE JULY 1, 2013]: Sec. 3. (a) An applicant must apply for
9 a child care home license on forms provided by the division.

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

12 (c) An applicant must submit with the application a statement
13 attesting that the applicant has not been:

14 (1) convicted of:

15 (A) a felony;

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

17 (C) a misdemeanor for operating a child care center without a
18 license under IC 12-17.2-4-35; or

19 (D) a misdemeanor for operating a child care home without a
20 license under section 35 of this chapter; and

21 (2) charged with:

22 (A) a felony;

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

24 (C) a misdemeanor for operating a child care center without a
25 license under IC 12-17.2-4-35; or

26 (D) a misdemeanor for operating a child care home without a
27 license under section 35 of this chapter;

28 during the pendency of the application.

29 (d) An applicant must submit the necessary information, forms, or
30 consents for the division to:

31 (1) conduct a **national** criminal history **background** check on the
32 applicant's spouse; and

33 (2) obtain a national criminal history background check on the
34 applicant. ~~through the state police department under~~
35 ~~IC 10-13-3-39.~~

36 (e) An applicant must do the following:

37 (1) Conduct a **national** criminal history **background** check of the
38 applicant's:

39 (A) employees;

40 (B) volunteers; and

41 (C) household members who are:

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

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- 1 (ii) less than eighteen (18) years of age but have previously
- 2 been waived from juvenile court to adult court.
- 3 (2) Maintain records of each criminal history check.
- 4 SECTION 32. IC 12-17.2-6-14, AS AMENDED BY P.L.124-2007,
- 5 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 6 JULY 1, 2013]: Sec. 14. The child care ministry must do the following:
- 7 (1) Conduct a **national** criminal history **background** check of the
- 8 child care ministry's employees and volunteers.
- 9 (2) Refrain from employing, or allowing to serve as a volunteer,
- 10 an individual who:
- 11 (A) has been convicted of any of the following felonies:
- 12 (i) Murder (IC 35-42-1-1);
- 13 (ii) Causing suicide (IC 35-42-1-2);
- 14 (iii) Assisting suicide (IC 35-42-1-2.5);
- 15 (iv) Voluntary manslaughter (IC 35-42-1-3);
- 16 (v) Reckless homicide (IC 35-42-1-5);
- 17 (vi) Battery (IC 35-42-2-1);
- 18 (vii) Aggravated battery (IC 35-42-2-1.5);
- 19 (viii) Kidnapping (IC 35-42-3-2);
- 20 (ix) Criminal confinement (IC 35-42-3-3);
- 21 (x) A felony sex offense under IC 35-42-4;
- 22 (xi) Carjacking (IC 35-42-5-2);
- 23 (xii) Arson (IC 35-43-1-1);
- 24 (xiii) Incest (IC 35-46-1-3);
- 25 (xiv) Neglect of a dependent (IC 35-46-1-4(a)(1) and
- 26 IC 35-46-1-4(a)(2));
- 27 (xv) Child selling (IC 35-46-1-4(d));
- 28 (xvi) A felony involving a weapon under IC 35-47 or
- 29 IC 35-47.5;
- 30 (xvii) A felony relating to controlled substances under
- 31 IC 35-48-4;
- 32 (xviii) An offense relating to material or a performance that
- 33 is harmful to minors or obscene under IC 35-49-3;
- 34 (xix) A felony that is substantially equivalent to a felony
- 35 listed in items (i) through (xviii) for which the conviction
- 36 was entered in another state: **a felony**;
- 37 (B) has been convicted of a misdemeanor related to the health
- 38 or safety of a child;
- 39 (C) has been convicted of a misdemeanor for operating a
- 40 child care center without a license under IC 12-17.2-4-35;
- 41 (D) has been convicted of a misdemeanor for operating a
- 42 child care home without a license under IC 12-17.2-5-35;

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- 1 or
- 2 ~~(E)~~ (E) is a person against whom an allegation of child abuse
- 3 or neglect has been substantiated under IC 31-33.
- 4 (3) Maintain records of each criminal history check.

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