

# HOUSE BILL No. 1494

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 12-7-2-131.8; IC 12-17.2.

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

**Effective:** July 1, 2013.

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## Summers

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

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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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## HOUSE BILL No. 1494



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

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

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

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

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



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

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1 to the division upon request a copy of a ~~limited~~ **national** criminal  
2 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 4. IC 12-17.2-4-3, AS AMENDED BY P.L.145-2006,  
 27 SECTION 97, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 28 JULY 1, 2013]: Sec. 3. (a) An applicant must apply for a child care  
 29 center license on forms provided by the division.  
 30 (b) An applicant must submit the required information as part of the  
 31 application.  
 32 (c) The applicant must submit with the application a statement  
 33 attesting that the applicant:  
 34 (1) has not been convicted of:  
 35 (A) a felony;  
 36 (B) a misdemeanor relating to the health or safety of children;  
 37 (C) a misdemeanor for operating a child care center without a  
 38 license under section 35 of this chapter; or  
 39 (D) a misdemeanor for operating a child care home without a  
 40 license under IC 12-17.2-5-35; and  
 41 (2) has not been charged with:  
 42 (A) a felony;

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

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- 1 applicant. through the state police department under  
 2 ~~IC 10-13-3-39~~.
- 3 (e) An applicant must do the following:
- 4 (1) Conduct a **national** criminal history **background** check of the  
 5 applicant's:
- 6 (A) employees;
- 7 (B) volunteers; and
- 8 (C) household members who are:
- 9 (i) at least eighteen (18) years of age; or
- 10 (ii) less than eighteen (18) years of age but have previously  
 11 been waived from juvenile court to adult court.
- 12 (2) Maintain records of each criminal history check.
- 13 SECTION 6. IC 12-17.2-6-14, AS AMENDED BY P.L.124-2007,  
 14 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 15 JULY 1, 2013]: Sec. 14. The child care ministry must do the following:
- 16 (1) Conduct a **national** criminal history **background** check of the  
 17 child care ministry's employees and volunteers.
- 18 (2) Refrain from employing, or allowing to serve as a volunteer,  
 19 an individual who:
- 20 (A) has been convicted of any of the following felonies:
- 21 (i) Murder (~~IC 35-42-1-1~~);
- 22 (ii) Causing suicide (~~IC 35-42-1-2~~);
- 23 (iii) Assisting suicide (~~IC 35-42-1-2.5~~);
- 24 (iv) Voluntary manslaughter (~~IC 35-42-1-3~~);
- 25 (v) Reckless homicide (~~IC 35-42-1-5~~);
- 26 (vi) Battery (~~IC 35-42-2-1~~);
- 27 (vii) Aggravated battery (~~IC 35-42-2-1.5~~);
- 28 (viii) Kidnapping (~~IC 35-42-3-2~~);
- 29 (ix) Criminal confinement (~~IC 35-42-3-3~~);
- 30 (x) A felony sex offense under ~~IC 35-42-4~~;
- 31 (xi) Carjacking (~~IC 35-42-5-2~~);
- 32 (xii) Arson (~~IC 35-43-1-1~~);
- 33 (xiii) Incest (~~IC 35-46-1-3~~);
- 34 (xiv) Neglect of a dependent (~~IC 35-46-1-4(a)(1)~~ and  
 35 ~~IC 35-46-1-4(a)(2)~~);
- 36 (xv) Child selling (~~IC 35-46-1-4(d)~~);
- 37 (xvi) A felony involving a weapon under ~~IC 35-47~~ or  
 38 ~~IC 35-47.5~~;
- 39 (xvii) A felony relating to controlled substances under  
 40 ~~IC 35-48-4~~;
- 41 (xviii) An offense relating to material or a performance that  
 42 is harmful to minors or obscene under ~~IC 35-49-3~~;

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

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