

## **IC 31-27-4**

### Chapter 4. Regulation of Foster Homes

#### **IC 31-27-4-1**

##### **License required for operation**

Sec. 1. (a) A person may not operate a foster family home without a license issued under this article.

(b) The state or a political subdivision of the state may not operate a foster family home without a license issued under this article.

(c) A person may not operate a foster family home if:

- (1) the number of children maintained on the premises at any one (1) time is greater than the number authorized by the license; or
- (2) the children are maintained in a building or place not designated by the license.

*As added by P.L.145-2006, SEC.273.*

#### **IC 31-27-4-2**

##### **Therapeutic foster home; licenses; requirements; supervision and care limits**

Sec. 2. (a) A person may not operate a therapeutic foster family home without a license issued under this article.

(b) The state or a political subdivision of the state may not operate a therapeutic foster family home without a license issued under this article.

(c) The department may issue a license only for a therapeutic foster family home that meets:

- (1) all the licensing requirements of a foster family home; and
- (2) the additional requirements described in this section.

(d) An applicant for a therapeutic foster family home license must do the following:

- (1) Be licensed as a foster parent under this chapter and 465 IAC 2-1-1 et seq.
- (2) Participate in preservice training that includes:
  - (A) preservice training to be licensed as a foster parent under 465 IAC 2-1-1 et seq.; and
  - (B) additional preservice training in therapeutic foster care.

(e) A person who is issued a license to operate a therapeutic foster family home shall, within one (1) year after meeting the training requirements of subsection (d)(2) and, annually thereafter, participate in training that includes:

- (1) training as required in order to be licensed as a foster parent under 465 IAC 2-1-1 et seq.; and
- (2) additional training in order to be licensed as a therapeutic foster parent under this chapter.

(f) An operator of a therapeutic foster family home may not provide supervision and care in a therapeutic foster family home to more than four (4) children at the same time, including the children for whom the applicant or operator is a parent, stepparent, guardian, custodian, or other relative, and only two (2) of the children may be

foster children. The department may grant an exception to this subsection whenever the placement of siblings in the same therapeutic foster family home is desirable, the foster child has an established, meaningful relationship with the therapeutic foster parent, or it is otherwise in the foster child's best interests.

(g) An operator of a therapeutic foster family home that has a therapeutic foster child placed with the therapeutic foster family home may not accept a placement of a child who is not a therapeutic foster child unless the child who is not a therapeutic foster child is a sibling of the therapeutic foster child who is placed with the therapeutic foster family home or it is in the best interests of the child being placed.

(h) A therapeutic foster family home may provide care for an individual receiving foster care for older youth under IC 31-28-5.7-1 if the individual is no longer under the care and supervision of a juvenile court.

(i) An individual who receives foster care for older youth under IC 31-28-5.7-1 in a therapeutic foster family home shall not be considered in determining whether the therapeutic foster family home meets or exceeds the limit set forth in subsection (f).

(j) The department shall adopt rules under IC 4-22-2, including emergency rules under IC 4-22-2-37.1, necessary to carry out this section, including rules governing the number of hours of training required under subsections (d) and (e).

(k) If a therapeutic foster family home does not meet the requirements under subsection (f) or (g) on July 1, 2011, any foster child placed in the home prior to July 1, 2011, may remain placed. However, a new placement of a child may not be made in violation of this section.

*As added by P.L.145-2006, SEC.273. Amended by P.L.143-2008, SEC.7; P.L.131-2009, SEC.36; P.L.162-2011, SEC.26.*

### **IC 31-27-4-3**

#### **Special needs foster family home; licenses; requirements; supervision and care limits; considerations**

Sec. 3. (a) A person may not operate a special needs foster family home without a license issued under this article.

(b) The state or a political subdivision of the state may not operate a special needs foster family home without a license issued under this article.

(c) The department may only issue a license for a special needs foster family home that meets:

- (1) all the licensing requirements of a foster family home; and
- (2) the additional requirements described in this section.

(d) An applicant for a special needs foster family home license must be licensed as a foster parent under 465 IAC 2-1-1 et seq. that includes participating in preservice training.

(e) A person who is issued a license to operate a special needs foster family home shall, within one (1) year after meeting the training requirements of subsection (d) and, annually thereafter,

participate in training that includes:

- (1) training as required in order to be licensed as a foster parent under 465 IAC 2-1-1 et seq.; and
- (2) additional training that includes specialized training to meet the child's or individual's specific needs.

(f) An operator of a special needs foster family home may not provide supervision and care as a special needs foster family home if more than:

- (1) five (5) individuals, each of whom:
  - (A) is less than eighteen (18) years of age; or
  - (B) is at least eighteen (18) years of age and is receiving care and supervision under an order of a juvenile court; or
- (2) four (4) individuals less than six (6) years of age;

including the children or individuals for whom the provider is a parent, stepparent, guardian, custodian, or other relative, receive care and supervision in the home at the same time. Not more than four (4) of the five (5) individuals described in subdivision (1) may be less than six (6) years of age. The department may grant an exception to this section whenever the department determines that the placement of siblings in the same special needs foster home is desirable, the foster child has an established, meaningful relationship with the foster parents, or it is otherwise in the foster child's best interests.

(g) An individual who receives foster care for older youth under IC 31-28-5.7-1 in a special needs foster family home shall not be considered in determining whether the special needs foster family home meets or exceeds the limit set forth in subsection (f)(1).

(h) The department shall consider the specific needs of each special needs foster child or individual whenever the department determines the appropriate number of children or individuals to place in the special needs foster home under subsection (f). The department may require a special needs foster family home to provide care and supervision to less than the maximum number of children or individuals allowed under subsection (f) upon consideration of the specific needs of a special needs foster child or individual.

(i) A special needs foster family home may provide care for an individual receiving foster care for older youth under IC 31-28-5.7-1 if the individual is no longer under the care and supervision of a juvenile court.

(j) The department shall adopt rules under IC 4-22-2, including emergency rules under IC 4-22-2-37.1, necessary to carry out this section, including rules governing the number of hours of training required under subsection (e).

(k) If a special needs foster family home does not meet the requirements under subsection (f) on July 1, 2011, any foster child placed in the home prior to July 1, 2011 may remain placed. However, a new placement of a child may not be made in violation of this section.

*As added by P.L.145-2006, SEC.273. Amended by P.L.143-2008, SEC.8; P.L.131-2009, SEC.37; P.L.162-2011, SEC.27.*

#### **IC 31-27-4-4**

##### **Consultation with fire prevention and building safety commission**

Sec. 4. The fire prevention and building safety commission shall provide consultation regarding the licensure of foster family homes to the department upon request.

*As added by P.L.145-2006, SEC.273.*

#### **IC 31-27-4-5**

##### **Apply for licenses; criminal history checks**

Sec. 5. (a) An applicant must apply for a foster family home license on forms provided by the department.

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

(c) An applicant must submit with the application a statement attesting the following:

(1) Whether the applicant has been convicted of:

(A) a felony; or

(B) a misdemeanor relating to the health and safety of children.

(2) Whether the applicant has been charged with:

(A) a felony; or

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

during the pendency of the application.

(d) An applicant shall submit the necessary information, forms, or consents for the department to conduct a criminal history check for each individual who is an applicant.

(e) The department or, at the discretion of the department, an applicant, shall conduct a criminal history check of:

(1) the applicant's employees and volunteers who have or will have direct contact, on a regular and continuing basis, with children who are or will be under the direct supervision of the applicant; and

(2) all household members who are at least fourteen (14) years of age.

(f) If the applicant conducts criminal history checks under subsection (e), the applicant shall maintain records of the information received concerning each individual subject of a criminal history check.

(g) If the department conducts a criminal history check on behalf of an applicant under subsection (e), the department shall:

(1) make a determination whether the subject of a national fingerprint based criminal history check has a record of:

(A) a conviction for a felony;

(B) a conviction for a misdemeanor relating to the health and safety of a child; or

(C) a juvenile adjudication for an act listed in section 13(a) of this chapter that, if committed by an adult, would be a felony;

(2) notify the applicant of the determination under subdivision

- (1) without identifying a specific offense or other identifying information concerning a conviction or juvenile adjudication contained in the national criminal history record information;
- (3) submit to the applicant a copy of any state limited criminal history report that the department receives on behalf of any person described in subsection (e); and
- (4) maintain a record of every report and all information the department receives concerning a person described in subsection (e).

(h) Except as provided in subsection (i), a criminal history check described in subsection (e) is required only at the time an application for a new license or the renewal of an existing license is submitted.

(i) With the exception of a fingerprint based criminal history background check under IC 31-9-2-22.5(1)(B) for a person described in subsection (e)(1), a criminal history check concerning a person described in subsection (e) must be completed on or before the date on which the subject of the check is first employed or assigned as a volunteer in a position described in subsection (e)(1) or first becomes a resident of the applicant's household as described in subsection (e)(2). A fingerprint based criminal history background check under IC 31-9-2-22.5(1)(B) for a person described in subsection (e)(1) must be completed not later than the conclusion of the first ninety (90) days of employment in or assignment of a volunteer. However, if a person described in this subsection has been the subject of a criminal history check that was conducted not more than one (1) year before the date the license application is submitted to the department, a new criminal history check of that person is not required.

(j) An applicant or a licensee described in subsection (e)(1) may provisionally employ an individual or assign a volunteer for whom a criminal history check is required during the period after the process of requesting fingerprint based criminal history background check information has been initiated by or on behalf of the applicant or licensee but before the determination is obtained by or communicated to the applicant or licensee. If the determination is not received by not later than ninety (90) days after the effective date of hire or volunteer assignment, the employee or volunteer relationship must be terminated or suspended until a determination is received. An employee or volunteer whose determination has not yet been received may not have direct contact with a child who is or will be placed at a facility operated by the applicant or licensee unless the direct contact occurs only in the presence of a volunteer or employee of the applicant or licensee who has been the subject of a completed and approved criminal history check. In determining whether to provisionally hire or assign as a volunteer an individual described in subsection (e)(1), the applicant or licensee shall consider the following:

- (1) The training time required by an employee or a volunteer.
- (2) The safety and security of the children under the supervision of the applicant or licensee.
- (3) The safety and security of the other staff and volunteers

working under the supervision of the applicant or licensee.

(4) The staffing concerns of the applicant or licensee.

(5) Any other factor relating to the safety and security of the applicant's or licensee's operations.

(k) The department shall, at the applicant's request, inform the applicant whether the department has or does not have a record of the person who is the subject of a criminal history background check and if the department has identified the person as an alleged perpetrator of abuse or neglect. The department may not provide to the applicant any details or personally identifying information contained in any child protective investigation report.

(l) A person who is the subject of a criminal history check conducted in accordance with this section may request the state police department to provide the person with a copy of any state or national criminal history report concerning the person.

*As added by P.L.145-2006, SEC.273. Amended by P.L.138-2007, SEC.51; P.L.162-2011, SEC.28.*

#### **IC 31-27-4-6**

##### **Grounds for denial of license applications; waiver**

Sec. 6. (a) The following constitute sufficient grounds for a denial of a license application:

(1) A determination by the department of child abuse or neglect by:

(A) the applicant;

(B) an employee 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 the applicant; or

(C) a person residing in the applicant's residence.

(2) A criminal conviction of the applicant of any of the following:

(A) a felony;

(B) a misdemeanor related to the health and safety of a child;

(C) a misdemeanor for operating a child care center or child care home without a license under IC 12-17.2-5; or

(D) a misdemeanor for operating a foster family home without a license under this chapter (or IC 12-17.4-4 before its repeal).

(3) A determination by the department that the applicant made false statements in the applicant's application for licensure.

(4) A determination by the department that the applicant made false statements in the records required by the department.

(5) A determination by the department that:

(A) the applicant;

(B) an employee 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 the applicant; or

(C) a person residing in the applicant's residence;

previously operated a child care center or child care home without a license under IC 12-17.2-5 or a foster family home without a license under this chapter (or IC 12-17.4-4 before its repeal).

(6) A juvenile adjudication of the applicant for an act listed in section 13(a) of this chapter that, if committed by an adult, would be a felony.

(b) An application for a license may also be denied if an individual who resides in the residence of the applicant or an employee or 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 has had any of the following:

(1) A conviction of a felony described in IC 31-27-4-13(a).

(2) A conviction of any other felony or a misdemeanor relating to the health and safety of a child, unless the applicant is granted a waiver by the department to employ or assign the person as a volunteer in a position described in this subsection or to permit the individual to reside in the applicant's residence.

(3) A juvenile adjudication for an act listed in section 13(a) of this chapter that, if committed by an adult, would be a felony, unless the applicant is granted a waiver by the department to:

(A) employ or assign the person as a volunteer in a position described in this subsection; or

(B) permit the individual to reside in the applicant's residence.

(c) In determining whether to grant a waiver under subsection (b), the department shall consider the following factors:

(1) The length of time that has passed since the disqualifying conviction.

(2) The severity, nature, and circumstances of the offense.

(3) Evidence of rehabilitation.

(4) The duties and qualifications required for the proposed employment positions or volunteer assignment.

(5) The nature and extent of unsupervised contact with children residing in the home.

(d) Notwithstanding subsection (a) or (b), if:

(1) a license application could be denied due to a criminal conviction of, or a determination of child abuse or neglect by, an employee, a volunteer, or a person residing in the residence of the applicant; and

(2) the department determines that the employee or volunteer has been dismissed by the applicant or that the person residing in the residence no longer resides there;

the criminal conviction of, or determination of child abuse or neglect by, the former employee, former volunteer, or former household resident does not constitute a sufficient basis for the denial of a license application.

(e) The department may adopt rules to implement this section.

*As added by P.L.145-2006, SEC.273. Amended by P.L.138-2007, SEC.52; P.L.162-2011, SEC.29.*

#### **IC 31-27-4-7**

##### **Incomplete applications**

Sec. 7. The department may not act on an incomplete application. The department shall return an incomplete application with a notation concerning omissions. The return of an incomplete application is without prejudice.

*As added by P.L.145-2006, SEC.273.*

#### **IC 31-27-4-8**

##### **Supervision and care limits; exceptions**

Sec. 8. (a) An applicant may not provide supervision and care as a foster family home if more than:

(1) five (5) individuals, each of whom:

(A) is less than eighteen (18) years of age; or

(B) is at least eighteen (18) years of age and is receiving care and supervision under an order of a juvenile court; or

(2) four (4) individuals less than six (6) years of age;

including the children or individuals for whom the provider is a parent, stepparent, guardian, custodian, or other relative, receive care and supervision at the facility at the same time.

(b) Not more than four (4) of the five (5) individuals in subsection (a)(1) may be less than six (6) years of age.

(c) The department may grant an exception to this section whenever the department determines that:

(1) the placement of siblings in the same foster family home is desirable;

(2) a foster child has an established, meaningful relationship with the foster parents; or

(3) it is otherwise in the foster child's best interests.

(d) An individual who receives foster care for older youth under IC 31-28-5.7-1 in a foster family home shall not be considered in determining whether the foster family home meets or exceeds the limit set forth in subsection (a)(1).

(e) If a foster family home does not meet the requirements under subsection (a) on July 1, 2011, any foster child placed in the home prior to July 1, 2011 may remain placed. However, a new placement of a child may not be made in violation of this section.

*As added by P.L.145-2006, SEC.273. Amended by P.L.143-2008, SEC.9; P.L.162-2011, SEC.30.*

#### **IC 31-27-4-9**

##### **Licensing of applicants providing care and supervision to relatives**

Sec. 9. (a) An applicant may apply for a foster family home license even if the applicant will be providing care and supervision under an order of a juvenile court to a niece, nephew, sibling, or grandchild.

(b) If an applicant described in subsection (a) otherwise qualifies for a foster family home license, the department may issue a foster family home license to the applicant.

*As added by P.L.145-2006, SEC.273.*

#### **IC 31-27-4-10**

##### **Investigation of applicants**

Sec. 10. The department shall investigate a person seeking licensure to determine whether the person is in compliance with this article and the rules adopted under this article. The investigation shall be conducted at a reasonable time and in a reasonable manner in announced or unannounced visits. Activities may include onsite inspections, record reading, observation, and interviewing. The department may require that evidence of compliance with the rules be presented in a form and manner specified in the rules.

*As added by P.L.145-2006, SEC.273.*

#### **IC 31-27-4-11**

##### **Issuance of license**

Sec. 11. The department shall issue a license to a person who meets all the license requirements when an investigation shows the applicant to be in compliance under this article.

*As added by P.L.145-2006, SEC.273.*

#### **IC 31-27-4-12**

##### **Eligibility for waivers and variances**

Sec. 12. A foster family home may be eligible to receive a waiver or variance from the requirements of this chapter by complying with IC 31-27-2-8.

*As added by P.L.145-2006, SEC.273.*

#### **IC 31-27-4-13**

##### **Denial of license; notice; administrative hearing upon written request**

Sec. 13. (a) The department shall deny a license when an applicant fails to meet the requirements for a license. The department shall deny a license to an applicant who has been convicted of any of the following felonies:

- (1) Murder (IC 35-42-1-1).
- (2) Causing suicide (IC 35-42-1-2).
- (3) Assisting suicide (IC 35-42-1-2.5).
- (4) Voluntary manslaughter (IC 35-42-1-3).
- (5) Reckless homicide (IC 35-42-1-5).
- (6) Battery (IC 35-42-2-1) within the past five (5) years.
- (7) Domestic battery (IC 35-42-2-1.3).
- (8) Aggravated battery (IC 35-42-2-1.5).
- (9) Kidnapping (IC 35-42-3-2).
- (10) Criminal confinement (IC 35-42-3-3) within the past five (5) years.
- (11) A felony sex offense under IC 35-42-4.
- (12) Carjacking (IC 35-42-5-2) within the past five (5) years.
- (13) Arson (IC 35-43-1-1) within the past five (5) years.
- (14) Incest (IC 35-46-1-3).
- (15) Neglect of a dependent (IC 35-46-1-4(a)(1) and IC 35-46-1-4(a)(2)).

(16) Child selling (IC 35-46-1-4(d)).

(17) A felony involving a weapon under IC 35-47 or IC 35-47.5 within the past five (5) years.

(18) A felony relating to controlled substances under IC 35-48-4 within the past five (5) years.

(19) An offense relating to material or a performance that is harmful to minors or obscene under IC 35-49-3.

(20) A felony that is substantially equivalent to a felony listed in subdivisions (1) through (19) for which the conviction was entered in another state.

(b) The department may deny a license to an applicant who:

(1) has been convicted of a felony that is not listed in subsection (a); or

(2) has had a juvenile adjudication for an act listed in subsection (a) that, if committed by an adult, would be a felony.

(c) The department shall send written notice by certified mail that the application has been denied and give the reasons for the denial.

(d) An administrative hearing concerning the denial of a license shall be provided upon written request by the applicant. The request must be made not more than thirty (30) days after receiving the written notice under subsection (c).

(e) An administrative hearing shall be held not more than sixty (60) days after receiving a written request.

(f) An administrative hearing shall be held in accordance with IC 4-21.5-3.

(g) The department shall issue a decision not more than sixty (60) days after the conclusion of a hearing.

*As added by P.L.145-2006, SEC.273. Amended by P.L.138-2007, SEC.53; P.L.162-2011, SEC.31.*

#### **IC 31-27-4-14**

##### **Delegation of investigations**

Sec. 14. (a) The department may delegate the investigation of foster family homes to a licensed child placing agency. The child placing agency is responsible for completing a foster family home licensing study that shows substantial compliance with foster family home rules and is the basis of a recommendation for licensure to the department.

(b) The department shall:

(1) issue the license; or

(2) notify the child placing agency if a license is not issued, giving the reasons for the denial.

(c) After licensure the child placing agency shall supervise and monitor the foster family home in relation to the rules for licensure and shall recommend subsequent licensing and enforcement actions.

*As added by P.L.145-2006, SEC.273.*

#### **IC 31-27-4-15**

##### **Investigation of unlicensed premises**

Sec. 15. The department shall investigate any premises that the

department has reason to believe are being used for child care without a license in circumstances where a license is required.

*As added by P.L.145-2006, SEC.273.*

#### **IC 31-27-4-16**

##### **Duration of license; limitations; renewal**

Sec. 16. (a) A license for a foster family home expires four (4) years after the date of issuance, unless the license is revoked, modified to a probationary status, or voluntarily returned.

(b) A license issued under this chapter:

- (1) is not transferable;
- (2) applies only to the licensee and the location stated in the application; and
- (3) remains the property of the department.

(c) A foster family home shall have the foster family home's license available for inspection.

(d) If a licensee submits a timely application for renewal, the current license shall remain in effect until the department issues a license or denies the application.

*As added by P.L.145-2006, SEC.273. Amended by P.L.146-2006, SEC.31.*

#### **IC 31-27-4-17**

##### **Probationary status; duration; expiration; extension**

Sec. 17. (a) The department may place a licensee on probationary status if the licensee is temporarily unable to comply with a rule and if:

- (1) the noncompliance does not present an immediate threat to the health and well-being of the children;
- (2) the licensee files a plan with the department to correct the areas of noncompliance within the probationary period; and
- (3) the department approves the plan.

(b) A probationary status period is for not more than six (6) months. However, the department may extend a probationary status period for one (1) additional period of six (6) months.

(c) At the expiration of a probationary status period, the department shall:

- (1) reactivate the license to the end of the original term of the license;
- (2) extend the probationary status period as permitted under subsection (b); or
- (3) revoke the license.

*As added by P.L.145-2006, SEC.273. Amended by P.L.146-2006, SEC.32.*

#### **IC 31-27-4-18**

##### **Inspection of foster family homes**

Sec. 18. The department may conduct an inspection of a foster family home for the sole purpose of inquiry into matters as stated in the rules, including those directly affecting the health, safety,

treatment, and general well-being of the children protected under this article.

*As added by P.L.145-2006, SEC.273.*

#### **IC 31-27-4-19**

##### **Records of monitoring activities and inspections**

Sec. 19. The department shall keep written records of the department's monitoring activities and onsite inspections.

*As added by P.L.145-2006, SEC.273.*

#### **IC 31-27-4-20**

##### **Cooperation by licensees**

Sec. 20. The licensee shall cooperate with the department in carrying out the activities required by sections 18 through 19 of this chapter, including permitting the department to conduct announced or unannounced inspections.

*As added by P.L.145-2006, SEC.273.*

#### **IC 31-27-4-21**

##### **Records regarding children**

Sec. 21. (a) A licensee shall keep records required by the department regarding each child in the control and care of the licensee and shall report to the department upon request the facts the department requires with reference to children.

(b) The department shall keep records regarding children and facts learned about children and the children's parents or relatives confidential.

(c) The following have access to records regarding children and facts learned about children:

- (1) A state agency involved in the licensing of the foster family home.
- (2) A legally mandated child protection agency.
- (3) A law enforcement agency.
- (4) An agency having the legal responsibility to care for a child placed at the foster family home.
- (5) The parent, guardian, or custodian of the child at the foster family home.
- (6) A citizen review panel established under IC 31-25-2-20.4.
- (7) The department of child services ombudsman established by IC 4-13-19-3.

*As added by P.L.145-2006, SEC.273. Amended by P.L.138-2007, SEC.54; P.L.182-2009(ss), SEC.375.*

#### **IC 31-27-4-22**

##### **Notice of enforcement actions; informal meetings**

Sec. 22. The department shall give a licensee thirty (30) days written notice by certified mail of an enforcement action. The licensee shall also be provided with the opportunity for an informal meeting with the department. The licensee must request the meeting not more than ten (10) working days after receipt of the certified

notice.  
*As added by P.L.145-2006, SEC.273.*

#### **IC 31-27-4-23**

##### **Administrative hearings**

Sec. 23. (a) An administrative hearing concerning the decision of the department to impose a sanction under this chapter shall be provided upon a written request by the licensee. The request must be made not more than thirty (30) calendar days after the licensee receives notice under section 22 of this chapter. The written request must be made separately from an informal meeting request made under section 22 of this chapter.

(b) An administrative hearing shall be held not more than sixty (60) days after the department receives a written request under subsection (a).

*As added by P.L.145-2006, SEC.273.*

#### **IC 31-27-4-24**

##### **Procedure for administrative hearings**

Sec. 24. A hearing requested under section 23 of this chapter shall be held in accordance with IC 4-21.5-3.

*As added by P.L.145-2006, SEC.273.*

#### **IC 31-27-4-25**

##### **Issuance of decisions**

Sec. 25. The department shall issue a decision not more than sixty (60) days after the conclusion of a hearing.

*As added by P.L.145-2006, SEC.273.*

#### **IC 31-27-4-26**

##### **Repealed**

*(Repealed by P.L.146-2006, SEC.60.)*

#### **IC 31-27-4-27**

##### **Repealed**

*(Repealed by P.L.146-2006, SEC.60.)*

#### **IC 31-27-4-28**

##### **Repealed**

*(Repealed by P.L.146-2006, SEC.60.)*

#### **IC 31-27-4-29**

##### **Cessation of operation following revocation of license**

Sec. 29. A foster family home shall cease operation when the license of the foster family home is revoked.

*As added by P.L.145-2006, SEC.273.*

#### **IC 31-27-4-30**

##### **Notice**

Sec. 30. (a) After the license of a foster family home is revoked,

the department shall notify in writing each person responsible for each child in care, to ensure that the children are removed from the foster family home.

(b) The written notice shall be sent to the last known address of the person responsible for the child in care and must state that the license of the foster family home has been revoked.

*As added by P.L.145-2006, SEC.273. Amended by P.L.146-2006, SEC.33.*

### **IC 31-27-4-31**

#### **Judicial review**

Sec. 31. A final decision of the department made after a hearing is subject to judicial review under IC 4-21.5-5.

*As added by P.L.145-2006, SEC.273.*

### **IC 31-27-4-32**

#### **Grounds for revocation of license; waiver**

Sec. 32. (a) The following constitute sufficient grounds for revocation of a license:

(1) A determination by the department of child abuse or neglect by:

(A) the licensee;

(B) an employee 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 the licensee; or

(C) a person who is residing in the home of the licensee.

(2) A criminal conviction of the licensee for any of the following:

(A) A felony.

(B) A misdemeanor related to the health or safety of a child.

(C) A misdemeanor for operating a child care center or child care home without a license under IC 12-17.2-5.

(D) A misdemeanor for operating a foster family home without a license under this chapter (or IC 12-17.4-4 before its repeal).

(3) A determination by the department that the licensee made false statements in the licensee's application for licensure.

(4) A determination by the department that the licensee made false statements in the records required by the department.

(5) A determination by the department that:

(A) the licensee;

(B) an employee 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 the licensee; or

(C) a person residing in the licensee's residence;

previously operated a child care center or child care home without a license under IC 12-17.2-5 or a foster family home without a license under this chapter (or IC 12-17.4-4 before its

repeal).

(6) A juvenile adjudication of the licensee for an act listed in section 13(a) of this chapter that, if committed by an adult, would be a felony.

(b) A license may also be revoked if an individual who resides in the residence of the licensee or an employee or 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 has had any of the following:

(1) A conviction of a felony described in section 13(a) of this chapter.

(2) A conviction of any other felony or a misdemeanor relating to the health and safety of a child, unless the licensee is granted a waiver by the department to employ or assign the person as a volunteer in a position described in this subsection or to permit the individual to reside in the licensee's residence.

(3) A juvenile adjudication for an act listed in section 13(a) of this chapter that, if committed by an adult, would be a felony, unless the licensee is granted a waiver by the department to:

(A) employ or assign the individual as a volunteer in a position described in this subsection; or

(B) permit the individual to reside in the licensee's residence.

(c) In determining whether to grant a waiver under subsection (b), the department shall consider the following factors:

(1) The length of time that has passed since the disqualifying conviction.

(2) The severity, nature, and circumstances of the offense.

(3) Evidence of rehabilitation.

(4) The duties and qualifications required for the proposed employment positions or volunteer assignment.

(d) Notwithstanding subsection (b), if:

(1) a license could be revoked due to a criminal conviction of, or a determination of child abuse or neglect by, an employee or a volunteer of the licensee or an individual residing in the residence of the licensee; and

(2) the department determines that the employee or volunteer has been dismissed by the licensee within a reasonable time after the licensee became aware of the conviction or that the individual no longer resides in the licensee's residence;

the criminal conviction of, or determination of child abuse or neglect by, the former employee, former volunteer, or former household resident does not constitute a sufficient basis for the revocation of a license.

(e) The department may adopt rules to implement this section.

*As added by P.L.145-2006, SEC.273. Amended by P.L.138-2007, SEC.55; P.L.162-2011, SEC.32.*

### **IC 31-27-4-33**

#### **Compliance with rules; disciplinary sanctions; revocation of license**

Sec. 33. (a) A licensee shall operate a foster family home in

compliance with the rules established under this article and is subject to the disciplinary sanctions under subsection (b) if the department finds that the licensee has violated this article or a rule adopted under this article.

(b) After complying with the procedural provisions in sections 22 through 25 of this chapter, the department may revoke the license when the department finds that a licensee has committed a violation under subsection (a). However, the department shall permanently revoke the license of a licensee who has been convicted of any of the felonies described in section 13(a) of this chapter. The department may permanently revoke the license of a person who has been convicted of a felony that is not described in section 13(a) of this chapter.

*As added by P.L.145-2006, SEC.273. Amended by P.L.146-2006, SEC.34; P.L.162-2011, SEC.33.*

#### **IC 31-27-4-34**

##### **Investigation of unlicensed home reports; enforcement**

Sec. 34. (a) The department shall investigate a report of an unlicensed foster family home and report the department's findings to the attorney general and to the county office and the prosecuting attorney in the county where the foster family home is located.

(b) The attorney general or the department may do the following:

- (1) Seek the issuance of a search warrant to assist in the investigation.
- (2) File an action for injunctive relief.
- (3) Seek in a civil action a civil penalty not to exceed one hundred dollars (\$100) a day for each day a foster family home is operating without a license required under this article.

(c) The civil penalties collected under this section shall be deposited in the department of child services child care fund established by IC 31-25-2-16.

*As added by P.L.145-2006, SEC.273. Amended by P.L.1-2007, SEC.203.*

#### **IC 31-27-4-35**

##### **Notification of sexual contact or sex crime**

Sec. 35. (a) A licensee must immediately contact the department if:

- (1) a foster child less than sixteen (16) years of age, while living in a foster home, engages in or is the victim of sexual contact (as defined in IC 25-1-9-3.5);
- (2) a foster child, while living in a foster home, is:
  - (A) charged with or adjudicated as having committed an act that would be a crime under IC 35-42-4 if committed by an adult;
  - (B) charged with or convicted of an offense under IC 35-42-4; or
  - (C) the victim of an offense under IC 35-42-4; or
- (3) the licensee learns that a foster child has, before placement

with the licensee, engaged in or been the victim of an act described in subdivision (1) or (2).

(b) The information provided to the department under subsection (a) must include:

- (1) the name of the child;
- (2) the date of the occurrence of the act if it can be determined;
- (3) a description of the act;
- (4) the name of the responding law enforcement agency if a law enforcement agency is contacted; and
- (5) any other information the licensee determines is relevant.

(c) Notwithstanding any other law, the department shall provide information described in subsection (b)(1) through (b)(4), whether received from a licensee or another reliable source, to:

- (1) a prospective licensee before the placement of the foster child with that licensee; and
- (2) each licensee with whom the foster child has previously been placed.

(d) The notification requirements of subsection (c) apply to a foster child who has:

- (1) engaged in sexual contact (as defined in IC 25-1-9-3.5) if the foster child is less than sixteen (16) years of age;
- (2) been charged with or adjudicated as having committed an act that would be a crime under IC 35-42-4 if committed by an adult; or
- (3) been charged with or convicted of an offense under IC 35-42-4.

*As added by P.L.145-2006, SEC.273.*

### **IC 31-27-4-36**

#### **Violation of chapter**

Sec. 36. A person who knowingly or intentionally violates this chapter commits a Class B misdemeanor.

*As added by P.L.145-2006, SEC.273.*