

IC 31-27-6

Chapter 6. Regulation of Child Placing Agencies

IC 31-27-6-1

Operation of a child placing agency

Sec. 1. (a) A person may not operate a child placing agency without a license issued under this article.

(b) The state or a political subdivision of the state may not operate a child placing agency without a license issued under this chapter.

(c) A child placing agency 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 31-27-6-2

Apply for licenses; criminal history checks

Sec. 2. (a) An applicant must apply for a child placing agency license on forms provided by the department.

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

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

(1) That the applicant has not been convicted of:

(A) a felony; or

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

(2) That the applicant has not 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) The department on behalf of an applicant, or, at the discretion of the department, an applicant, shall conduct a criminal history check of the following:

(1) Each individual who is an applicant.

(2) The director or manager of a facility where children will be placed.

(3) An employee or a volunteer of the applicant who has or will have direct contact on a regular and continuing basis with a child who is or will be placed in a facility operated by the applicant.

(e) If the applicant conducts a criminal history check under subsection (d), the applicant shall:

(1) maintain records of the information it receives concerning each individual who is the subject of a criminal history check; and

(2) submit to the department a copy of the information it receives concerning each person described in subsection (d)(1) through (d)(3).

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

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

(A) conviction for a felony;

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

(C) juvenile adjudication for an act listed in IC 31-27-4-13(a) 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 (d); and

(4) maintain a record of every report and all information the department receives concerning a person described in subsection (d).

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

(h) A criminal history background check of a person described in subsection (d)(2) or (d)(3) must be completed on or before the date on which the subject of the check is employed or assigned as a volunteer. However, a fingerprint based criminal history background check under IC 31-9-2-22.5(1)(B) for a person described in subsection (d)(3) must be completed not later than the conclusion of the first ninety (90) days of employment in or assignment of a volunteer to a position described in subsection (d)(3). If a person described in this subsection has been the subject of a criminal history background check (as described in IC 31-9-2-22.5) 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.

(i) An applicant or a licensee may provisionally employ an individual or assign a volunteer described in subsection (d)(3) for whom a criminal history background 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 within 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 a 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 an employee of the applicant or licensee who has been the subject of a completed and approved criminal history background check. In determining whether to provisionally hire or assign as a volunteer an individual described in subsection (d)(3), 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.

(j) 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.

(k) 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.60; P.L.162-2011, SEC.37.

IC 31-27-6-3

Grounds for denial of license applications; waiver

Sec. 3. (a) The following constitute sufficient grounds for denial of a license application:

- (1) A determination by the department of child abuse or neglect by:
 - (A) the applicant; or
 - (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.
- (2) A criminal conviction of the applicant, or the director or manager of a facility where children will be placed by the licensee, for 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 caring institution, foster family home, group home, or child placing agency without a license under this article (or IC 12-17.4 before its

repeal).

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

(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; or

(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;

previously operated a home or facility without a license required under any applicable provision of this article (or IC 12-17.4 before its repeal) or IC 12-17.2.

(6) A juvenile adjudication of the applicant for an act listed in IC 31-27-4-13(a) that, if committed by an adult, would be a felony.

(b) An application for a license may also be denied if 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.

(3) A juvenile adjudication for an act listed in IC 31-27-4-13(a) that, if committed by an adult, would be a felony, 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.

(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 (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 or a volunteer of the applicant; and

(2) the department determines that the employee or volunteer has been dismissed by the applicant;

the criminal conviction of, or determination of child abuse or neglect by, the former employee or former volunteer 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.61; P.L.162-2011, SEC.38.

IC 31-27-6-4

Incomplete applications

Sec. 4. 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 31-27-6-5

Investigation of applicants

Sec. 5. 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 adopted under this article be presented in a form and manner specified in the rules.

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

IC 31-27-6-6

Issuance of license

Sec. 6. The department shall issue a license to a person who meets all of 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 31-27-6-7

Eligibility for waivers and variances

Sec. 7. A child placing agency 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 31-27-6-8

Denial of license

Sec. 8. (a) The department shall deny a license when an applicant fails to meet the requirements for a license.

(b) If the department denies an applicant a license under subsection (a), the department shall send the applicant written notice by certified mail that the application has been denied and give the reasons for the denial.

(c) 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 the applicant

receives the written notice under subsection (b).

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

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

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

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

IC 31-27-6-9

Investigation of unlicensed premises

Sec. 9. The department is responsible for investigating 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 31-27-6-10

Duration of license; limitations; renewal

Sec. 10. (a) A license for a child placing agency 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 child placing agency shall have the child placing agency'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.39.

IC 31-27-6-11

Probationary status; duration; expiration; extension

Sec. 11. (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 in the care of the licensee;

(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 in subsection (b); or
- (3) revoke the original license.

As added by P.L.145-2006, SEC.273. Amended by P.L.146-2006, SEC.40.

IC 31-27-6-12

Inspections of agencies

Sec. 12. The department may conduct an inspection of a child placing agency 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 31-27-6-13

Records of monitoring activities and inspections

Sec. 13. 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 31-27-6-14

Cooperation by licensees

Sec. 14. The licensee shall cooperate with the department in carrying out the activities required by sections 12 through 13 of this chapter, including permitting the department to conduct announced or unannounced inspections.

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

IC 31-27-6-15

Records regarding children

Sec. 15. (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 child placing agency.
- (2) A legally mandated child protection agency.
- (3) A law enforcement agency.
- (4) A citizen review panel established under IC 31-25-2-20.4.
- (5) 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.62; P.L.182-2009(ss), SEC.377.

IC 31-27-6-16

Notice of enforcement actions

Sec. 16. 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 31-27-6-17

Administrative hearings

Sec. 17. (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) days after the licensee receives notice under section 16 of this chapter. The written request must be made separately from an informal meeting request made under section 16 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 31-27-6-18

Procedure for administrative hearings

Sec. 18. A hearing requested under section 17 of this chapter shall be held in accordance with IC 4-21.5-3.

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

IC 31-27-6-19

Issuance of decisions

Sec. 19. The department shall issue a decision not more than sixty (60) days after the conclusion of a hearing under section 17 of this chapter.

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

IC 31-27-6-20

Repealed

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

IC 31-27-6-21

Repealed

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

IC 31-27-6-22

Repealed

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

IC 31-27-6-23

Cessation of operation upon revocation of license

Sec. 23. A child placing agency shall cease operation when the license of the child placing agency is revoked.

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

IC 31-27-6-24

Notice

Sec. 24. (a) After the license of a child placing agency 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 child placing agency.

(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 child placing agency has been revoked.

As added by P.L.145-2006, SEC.273. Amended by P.L.146-2006, SEC.41.

IC 31-27-6-25

Judicial review

Sec. 25. 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 31-27-6-26

Investigation of noncompliance; injunctions; corrective action plans; informal meetings

Sec. 26. (a) The department shall investigate a report of a licensed child placing agency's noncompliance with this article and the rules adopted under this article if there is reasonable cause to believe that a licensee's noncompliance with this article and rules adopted under this article creates an imminent danger of serious bodily injury to a child or an imminent danger to the health of a child and report the department's findings to the attorney general and to the county office and the prosecuting attorney in the county where the child placing agency 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 to stop the operation of a child placing agency if there is reasonable cause to believe that a licensee's noncompliance with this article and the rules adopted under this article creates an imminent danger of serious bodily injury to a child or an imminent danger to the health of a child.

(c) The department may require a plan of corrective action for emergency protection of the children described in subsection (b).

(d) An opportunity for an informal meeting with the department shall be available after injunctive relief is ordered under subsection (b)(2).

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

IC 31-27-6-27

Expiration of injunctions for noncompliance

Sec. 27. A court order granted under section 26(b)(2) of this chapter expires upon the later of the following:

- (1) Sixty (60) days after the order is issued.
- (2) When a final department decision is issued under sections 16 through 19 of this chapter if notice of an enforcement action is issued under section 16 of this chapter.

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

IC 31-27-6-28

Grounds for revocation of licenses; waiver

Sec. 28. (a) The following constitute sufficient grounds for revocation of a license:

- (1) A determination by the department of child abuse or neglect (as defined in IC 31-9-2-14) by:
 - (A) the licensee; or
 - (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.
- (2) A criminal conviction of the licensee, or the director or manager of a facility where children will be placed by 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 caring institution, foster family home, group home, or child placing agency without a license under this article (or IC 12-17.4 before its repeal).
 - (D) A misdemeanor for operating a child care center or child care home without a license under IC 12-17.2.
- (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; or
 - (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; previously operated a home or facility without a license required under any applicable provision of this article (or IC 12-17.4 before its repeal) or IC 12-17.2.
- (6) A juvenile adjudication of a licensee for an act listed in IC 31-27-4-13(a) that, if committed by an adult, would be a

felony.

(b) A license may also be revoked if 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 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 licensee is granted a waiver by the department to employ or assign the person as a volunteer in a position described in this subsection.
- (3) A juvenile adjudication for an act listed in IC 31-27-4-13(a) that, if committed by an adult, would be a felony, 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.

(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 (a) or (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; 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 determination;

the criminal conviction of, or determination of child abuse or neglect by, the former employee or former volunteer 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.63; P.L.162-2011, SEC.39.

IC 31-27-6-29

Compliance with rules; disciplinary sanctions; revocation of license

Sec. 29. (a) A licensee shall operate a child placing agency 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 16 through 19 of this chapter, the department may revoke the license when the department finds that a licensee has committed a violation under subsection (a).

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

SEC.42.

IC 31-27-6-30

Investigation of unlicensed operation; injunctions; civil penalties

Sec. 30. (a) The department shall investigate a report of an unlicensed child placing agency and report the department's findings to the attorney general and to the county office and the prosecuting attorney in the county where the child placing agency 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 to stop the operation of a child placing agency if there is reasonable cause to believe that the child placing agency is operating without a license required under this article.

(3) Seek in a civil action a civil penalty not to exceed one hundred dollars (\$100) a day for each day a child placing agency is operating without a license required under this article.

(c) An opportunity for an informal meeting with the department shall be available after injunctive relief is ordered under subsection (b)(2).

(d) 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.205.

IC 31-27-6-31

Expiration of injunctions for unlicensed operation

Sec. 31. A court order granted under section 30(b)(2) of this chapter expires when the child placing agency is issued a license.

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

IC 31-27-6-32

Violations of chapter

Sec. 32. A person who knowingly or intentionally violates this chapter commits a Class B misdemeanor.

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