Members

Sen. Travis Holdman, Chairperson
Sen. Connie Sipes
Rep. Vanessa Summers
Rep. Matthew Lehman
Cinda Kelley
Tracie Wells
Rebecca Bickel
James Greeson
Melanie Brizzi
Gregory Larkin
Mitch Roob
Dana Jones
Brenda Summers

LSA Staff:

Ann Naughton, Attorney for the Committee
Chris Baker, Fiscal Analyst for the Committee

Authority: IC 12-17.2-3.3

COMMITTEE ON CHILD CARE

Legislative Services Agency
200 West Washington Street, Suite 301
Indianapolis, Indiana 46204-2789
Tel: (317) 233-0696 Fax: (317) 232-2554

MEETING MINUTES[1]

Meeting Date: October 27, 2010
Meeting Time: 10:00 A.M.
Meeting Place: State House, 200 W. Washington St., Room 233
Meeting City: Indianapolis, Indiana
Meeting Number: 3

Members Present: Sen. Travis Holdman, Chairperson; Sen. Connie Sipes; Rep. Vanessa Summers; Rep. Matthew Lehman; Cinda Kelley; Tracie Wells; Rebecca Bickel; James Greeson; Melanie Brizzi; Brian Carnes for Gregory Larkin; Dana Jones; Brenda Summers

Members Absent: Mitch Roob

Sen. Holdman called the meeting to order at 10:10 a.m. and asked the members to introduce themselves. He distributed the comparison chart of legal requirements applying to different types of child care providers which was discussed during the September 29, 2010, meeting of the Committee[2] and stated that the chart is considered to be a work in progress.

Consideration of Preliminary Drafts

Sen. Holdman requested that Ms. Naughton describe Preliminary Draft (PD) 3458[3] (Making certain health and safety requirements that apply to various types of child care providers consistent), including requirements for: (1) criminal history checks; (2) drug testing; (3) caregiver education and

---

[1] These minutes, exhibits, and other materials referenced in the minutes can be viewed electronically at http://www.in.gov/legislative Hard copies can be obtained in the Legislative Information Center in Room 230 of the State House in Indianapolis, Indiana. Requests for hard copies may be mailed to the Legislative Information Center, Legislative Services Agency, West Washington Street, Indianapolis, IN 46204-2789. A fee of $0.15 per page and mailing costs will be charged for hard copies.

[2] Attachment 1.

[3] Attachment 2.

supervision; (4) child/staff ratios; (5) nutrition; (6) immunizations; (7) fire and hazardous materials safety; and (8) administrative procedures for noncompliance). Following the description, Sen. Holdman described his own and his wife's connection with their church's child care ministry. He then requested comments on the PD from the members.

Mr. Greeson provided information concerning the increase in fire dispatch times over the past 40 years, and the fact that fire multiplies itself from minute to minute. There was discussion among the members related to fire safety in child care facilities, including:

(1) methods of fire suppression;
(2) the possibility of a regulatory variance granted by the Fire Prevention and Building Safety Commission based on hardship, such as substituting fire walls for sprinkler systems;
(3) the extent to which a building would need to be modified to comply with fire inspection requirements based on the actual use of the building;
(4) the difficulty and danger of one caregiver evacuating several small children from a building in a fire;
(5) the need for basic safety standards to apply to all child care providers;
(6) the inability of some current child care ministries to comply with a more stringent "actual use of the building" fire safety standard and the danger of those child care ministries going out of business, which could decrease child care availability in some areas;
(7) the possibility of giving those child care ministries several years to comply with an "actual use of the building" fire safety standard;
(8) the role of the Committee and the Legislature in ensuring the safety of children in child care;
(9) the need for a sufficient number of various types of child care providers, particularly in more rural areas, to allow parents an actual choice among child care providers;
(10) the possibility of requiring less stringently regulated child care providers to notify parents about specific differences in regulation of the particular child care provider in comparison to other types of child care providers;
(11) the possibility that increased regulation might provide a good return on investment through decreased insurance costs, etc.; and
(12) the need for more objective data (which will be provided by the United Way/Purdue University study presented during the September 29, 2010, meeting of the Committee) to allow the Committee to determine whether compliance with a more stringent standard would have a detrimental effect on child care providers, rather than relying on possibly incorrect assumptions.

Sen. Holdman directed a lengthy discussion of each provision of PD 3458, beginning with SECTION 14, and requested a vote of "consent" or "no consent" for inclusion of each provision in the Committee's recommendations for the interim. The discussion of the provisions included:

(1) the importance of consistency in immunization requirements for all child care providers;
(2) the cost (including possible payment waivers for ministries) and application of national, state, and local criminal history check requirements to various individuals working or volunteering in child care;
(3) the availability of criminal history information, including information concerning an individual's registration as a sex offender;
(4) child/staff ratios and related safety and child care availability concerns;
(5) assumptions made by parents that if the state monitors a child care provider in any way the child care provider must provide a safe environment for their child;
(6) informing parents of the differences in state monitoring of different types of child care providers;
(7) nutritional requirements; and
(8) procedures for investigation of child abuse and neglect allegations.

Several interested parties who were present at the meeting provided comments related to the Committee's discussion. There was additional discussion among the members concerning consideration of PD 3441[4] (Requiring the establishment of a child care ministry advisory committee and specifying certain requirements for registration of child care ministries) and the reasons for their differences of opinion regarding child care regulation. No action was taken on PD 3441.

Upon motion and second, the Committee voted by a show of hands of 7 - 5 to adopt two versions of PD 3458 for introduction during the 2011 session of the Indiana General Assembly. One version of PD 3458 would be amended to: (1) include technical changes requested by Ms. Naughton; and (2) exclude the subject matter for which there was "no consent" during the Committee's discussion. The other version of PD 3458 would be amended only to include the technical changes requested by Ms. Naughton.

Consideration of Final Report

The final report of the Committee[5], with amendments to reflect the adoption of the two versions of PD 3458 as part of the Committee's recommendations, was adopted by consent.

With no further business to discuss, Sen. Holdman adjourned the meeting at 12:15 p.m.

---

[4]Attachment 3.

[5]Attachment 4.

Indiana Child Care Provider Comparison

September 29, 2010

Legal Requirements	License-Exempt Home	Class I Home	Class II Home	Center	Ministry	CCDF Provider
Basic Provider Type Factors						
Regulatory status	Exempt	Licensed	Licensed	Licensed	Registered	Licensed or comply with IC 12-17.2-3.5
Number of children	< six unrelated	Six to twelve unrelated	Thirteen to sixteen unrelated	At least one		One CCDF-eligible child
Operator or type of building		Residential	Residential	Nonresidential	Religious organization tax exempt under Sec. 501 of Internal Rev. Code	

Please note that in the tables on the following pages: "X" indicates that a legal requirement exists for the provider type; "X" does not indicate that legal requirements are identical; text indicates a more specific difference in the legal requirements.

Indiana Child Care Provider Comparison

September 29, 2010

Legal Requirements	License-Exempt Home	Class I Home	Class II Home	Center	Ministry	CCDF Provider
Staff Requirements/Qualifications				*		
Staff must have High School Diploma/GED		Licensee only	Licensee only	X		
Supervisory caregiver must be at least 18 years old		X	X	X		
State or local criminal history check		X	X	X	X	X
National criminal history check		Applicant only	Applicant only	Applicant only		
Staff trained in universal precautions		X	X	X		
Staff trained in first aid		X	X	X		X
CPR-trained person on site		X	X	X		X
Staff physical exam upon employment		X	X	X		
Staff has test for tuberculosis upon employment and annually		X	X	X		X
Staff has been tested for illegal drugs		X	X	X		X
Written policy concerning drugs, alcohol, illegal substances		X	X	X		X
Staff trained in symptoms/reporting of child abuse		X	X	X		
Staff orientation training		X	X	X		

*Staff education and training is specific and more extensive for centers than other providers.

Indiana Child Care Provider Comparison

September 29, 2010

Legal Requirements	License-Exempt Home	Class I Home	Class II Home	Center	Ministry	CCDF Provider
Physical Site				*		
Thirty-five square feet per child		Only for additional children	X	X		
Premises in sound, neat, sanitary condition		X	X	X	X	
Fire detection equipment		X	X	X	**Primary use of bldg	X
Fire suppression system/extinguishers required		X	X	X	**Primary use of bldg	X
Exits not blocked & do not require passage through material storage area		X	X	X		X
Written documentation of fire drills		X	X	X	**Primary use of bldg	X
Lighting standards		normal	normal	specific		
Heating/ventilation standards		normal	normal	specific		
Hot and cold running water		X	X	X		X
Air conditioning standards		screens	screens	specific	screens	

Indiana Child Care Provider Comparison

September 29, 2010

Legal Requirements	License-Exempt Home	Class I Home	Class II Home	Center	Ministry	CCDF Provider
Physical Site (continued)						
Toilet/Sink availability		X	X	toilet/person ratios	X	
Handwashing after diaper change		X	X	X	X	
Dangerous items (i.e., medicines/chemicals/poisons/fire arms) inaccessible to children		X	X	X		X
Telephone access		X	X	X		X
Child emergency telephone numbers		X	X	X		X
* Centers must have and post many more procedures and instructions (i.e., disaster, first aid, diapering, activities and schedules, special diets, menus, sterilization, etc.) than other providers.						
**"Primary use of building" means that different requirements apply dependent on whether the building is used primarily as a church, ministry, or otherwise. Unless the primary use is as a ministry, or the occupancy reaches a certain threshold, the ministry is not included in determining whether the requirements are met – i.e., fire extinguishers are not required for a ministry in a building that is not required to have a sprinkler system; fire drills would not necessarily include the children in care of the ministry.						
Child/Staff						
Child/staff ratios for all age groups		X	X	X		
All children under direct supervision at all times		X	X	X		X
Age grouping and group size				X		

Indiana Child Care Provider Comparison

September 29, 2010

Legal Requirements	License-Exempt Home	Class I Home	Class II Home	Center	Ministry	CCDF Provider
Program and Equipment		*	*	*		
Discipline		X	X	X		
Appropriate educational/play equipment/activities		X	X	X		
Parental visits allowed at any time		X	X	X	X	
Safety of transportation		X	X	X		
* Centers have very specific equipment and program requirements (i.e., toys, activities, methods of activities, furnishings, diaper areas and requirements, toilet training requirements, sleeping requirements including covering method and type and how to allow children to awaken, methods of coping with separation, literacy development, transportation requirements, specific playground equipment and design, water play areas, and educational equipment). Homes have some similar requirements, but much less extensive and detailed.						
Health Requirements						
Formal health program				X		
Child physical exam within 30 days of enrollment		X	X	X		
Maintain record of child's age-appropriate immunizations (annual)		X	X	X	Only on enrollment; specific immunizations	X
Care of ill children		X	X	X	X	
Medications		X	X	X		

Indiana Child Care Provider Comparison

September 29, 2010

Legal Requirements	License-Exempt Home	Class I Home	Class II Home	Center	Ministry	CCDF Provider
Nutritional /Food Requirements		*	*	*		
Nutritionally balanced meals/snacks		X	X	X		
Drinking water		X	X	X	not in bathroom	
Food service sanitation		basic	basic	detailed	detailed	
Approved kitchen				X		
*Centers have very specific food, meal, and feeding requirements (i.e., meal guidelines, specific meal components, timing of meals, conversation during meals, type of plate, posting of menus, special diets, formal food service/nutrition program, picnics, vendors, etc). Homes have some of the same types of requirements for feeding and food handling, but much less extensive.						
Inspections						
FSSA personnel		annual	annual	annual	semiannual	annual
State Fire Marshal		upon COFC request	upon COFC request	annual	annual	

CCDF Funding September, 2009 through August, 2010

Provider Type	Amount	
License-Exempt Homes	$3,951,663	
Class I and Class II Homes	$56,691,630	
Centers	$75,117,450	
Ministries	$27,669,418	
Programs not "child care providers"	$1,892,689	(i.e., school age programs, preschools, school system programs, etc.)
Total	**$165,322,850**	

CARE
October 27, 2010
Attachment 2

PRELIMINARY DRAFT
No. 3458

PREPARED BY
LEGISLATIVE SERVICES AGENCY
2011 GENERAL ASSEMBLY

DIGEST

Citations Affected: IC 4-21.5-2-6; IC 12-7-2-149.1; IC 12-17.2.

Synopsis: Child care. WORKING DRAFT FOR COMMITTEE ON CHILD CARE. Makes various statutory changes making certain requirements applying to child care providers consistent. NEED TO SPECIFY REASONABLE EFFECTIVE DATE FOR EACH PROVISION.

Effective:

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:

SECTION 1. IC 4-21.5-2-6, AS AMENDED BY P.L.219-2007, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 6. This article does not apply to the formulation, issuance, or administrative review (but does apply to the judicial review and civil enforcement) of any of the following:

(1) Except as provided in IC 12-17.2-4-18.7, ~~and~~ IC 12-17.2-5-18.7, **and IC 12-17.2-6-22,** determinations by the division of family resources and the department of child services.

(2) Determinations by the alcohol and tobacco commission.

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

SECTION 2. IC 12-7-2-149.1, AS AMENDED BY P.L.145-2006, SECTION 57, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 149.1. "Provider" means the following:

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

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

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

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

(C) IC 12-17.6.

(3) Except as provided in ~~subdivision~~ **subdivisions** (4) **and (5),** for purposes of IC 12-17.2, a person who operates a child care center or child care home under IC 12-17.2.

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

(A) provides child care; and

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

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

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

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

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

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

(D) A child care ministry registered under IC 12-17.2-6.

SECTION 3. IC 12-17.2-2-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 5. (a) The division shall adopt rules under IC 4-22-2 to govern the **registration and** inspection of child care ministries under this article **after consultation with the following:**

(1) State department of health.

(2) Fire prevention and building safety commission.

(3) The board.

The rules must provide standards for **food, health, safety, and** sanitation.

(b) A child care ministry shall comply with rules established by the division for child care ministries.

(c) The rules adopted under subsection (a) shall be applied by the division and state fire marshal in the registration and inspection of applicants for registration and of registrants.

SECTION 4. IC 12-17.2-2-10, AS AMENDED BY P.L.145-2006, SECTION 94, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 10. (a) The division may grant a variance or waiver of a rule governing ~~child care centers, or child care homes.~~ **a provider.** A variance or waiver granted under this section must promote statewide practices and must protect the rights of persons affected by this article.

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

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

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

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

(d) The division may grant a waiver of a rule if ~~an applicant for a~~

~~license or a licensee under this chapter~~ **a provider** does the following:

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

(2) Documents that compliance with the rule specified in the application for the waiver will create an undue hardship on the applicant for the waiver, as determined by the division.

(3) Documents that the applicant for the waiver will be in substantial compliance with the rules adopted by the division after the waiver is granted, as determined by the division.

(4) Documents that noncompliance with the rule specified in the application for a waiver will not be adverse to the health, safety, or welfare of a child receiving services from the applicant for the waiver, as determined by the division.

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

SECTION 5. IC 12-17.2-3.5-1, AS AMENDED BY P.L.124-2007, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 1. (a) This chapter applies to all child care providers regardless of whether a provider is required to be licensed or registered under this article. However, **except as provided in section 4(b) of this chapter,** a child care provider that is licensed under IC 12-17.2-4 or IC 12-17.2-5 is considered to be in compliance with this chapter unless the child care provider is found to be in violation of this chapter.

(b) If a school age child care program that is:

(1) described in IC 12-17.2-2-8(10); and

(2) located in a school building;

is determined to be in compliance with a requirement of this chapter by another state regulatory authority, the school age child care program is considered to be in compliance with the requirement under this chapter.

SECTION 6. IC 12-17.2-3.5-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 4. **(a)** A provider who:

(1) has been convicted of a:

(A) felony;

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

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

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

(2) employs or otherwise allows an individual who has been convicted of a crime specified under subdivision (1) to:

(A) serve as a caregiver to a child in the provider's care; or
(B) reside with the provider, if the provider operates a child care program in the provider's home; or
(3) fails to meet the requirements set forth in sections 5 through 12.1 of this chapter;
is ineligible to receive a voucher payment.

(b) A provider whose license under IC 12-17.2-4 or IC 12-17.2-5 is revoked or denied is ineligible to receive a voucher payment, regardless of whether the provider meets the requirements set forth in sections 5 through 12.1 of this chapter, until the license is reinstated or granted.

SECTION 7. IC 12-17.2-3.5-4.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 4.1. (a) This section applies to the following:
(1) A provider, if the provider is an individual.
(2) If a provider operates a child care program in the provider's home, an individual who resides with the provider and who is at least eighteen (18) years of age.
(3) An individual who:
(A) is employed; or
(B) volunteers;
as a caregiver at the facility where a provider operates a child care program.

(b) If information used by the division under ~~IC 31-33-17-6(7)~~ **IC 31-33-26-16(a)(10)** indicates that an individual described in subsection (a) has been named as ~~an alleged~~ **a** perpetrator, the following are ineligible to receive a voucher payment:
(1) The individual.
(2) A provider in whose home the individual resides if the provider operates a child care program in the provider's home.
(3) A provider that:
(A) employs the individual; or
(B) allows the individual to volunteer;
as a caregiver at the facility where the provider operates a child care program.

SECTION 8. IC 12-17.2-3.5-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 5. **(a)** A provider shall have:
(1) working smoke detectors that meet the standards adopted by rule for smoke detectors in licensed child care homes; and
(2) hot and cold running water;
in the area of the facility where the provider operates a child care program.

(b) A provider shall:
(1) maintain the child to staff ratio required under rules adopted by the division for each age group of children in the

care of the provider;

(2) provide appropriately timed, nutritionally balanced meals and snacks in sufficient quantities to meet the needs of each child; and

(3) maintain availability of drinking water at all times.

SECTION 9. IC 12-17.2-3.5-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: 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) An individual who:

(1) is employed; or

(2) volunteers;

as a caregiver at a facility where a provider operates a child care program shall maintain current certification in first aid applicable to all age groups of children cared for by the provider.

(c) The following apply to a caregiver at a facility where a provider operates a child care program:

(1) The caregiver shall obtain a physical health examination not more than thirty (30) days before or after the date the caregiver begins employment at the facility.

(2) The provider shall train the caregiver in recognizing symptoms of and reporting child abuse and neglect.

(3) If the caregiver is less than eighteen (18) years of age, the caregiver shall at all times when child care is being provided be directly supervised by a caregiver who is at least eighteen (18) years of age.

(4) The provider shall train the caregiver in universal precautions.

SECTION 10. IC 12-17.2-3.5-12, AS AMENDED BY P.L.142-2006, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 12. (a) Except as provided in subsection (f), a provider shall, at no expense to the state, maintain and make available to the division upon request a copy of a:

(1) national criminal history for:

(A) the provider, if the provider is an individual; or

(B) the director of the facility where the provider operates a child care program, if the provider is not an individual; and

(2) limited criminal history for:

~~(1)~~ **(A)** the provider, if the provider is an individual;

~~(2)~~ **(B)** if the provider operates a child care program in the provider's home, any individual who resides with the provider and who is:

~~(A)~~ **(i)** at least eighteen (18) years of age; or

~~(B)~~ **(ii)** less than eighteen (18) years of age but has previously been waived from juvenile court to adult court; and

~~(3)~~ **(C)** any individual who:

~~(A)~~ **(i)** is employed; or

~~(B)~~ **(ii)** volunteers;

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

A provider shall apply for a limited criminal history for an individual described in subdivision ~~(3)~~ **(2)(C)** before the individual is employed or allowed to volunteer as a caregiver.

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

(1) police investigations;

(2) arrests; and

(3) criminal convictions;

not listed on a **national or** limited criminal history obtained under subsection (a) regarding any of the persons listed in subsection (a).

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

(1) the provider:

(A) has applied for the **national criminal history and** limited criminal history required under subsection (a); and

(B) obtains a local criminal history for the individuals described in subsection (a) from each individual's local law enforcement agency before the individual is employed or allowed to volunteer as a caregiver; and

(2) the local criminal history does not reveal that an individual has been convicted of a:

(A) felony;

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

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

(D) misdemeanor for operating a child care home without a license under IC 12-17.2-5-35.

(d) A provider is ineligible to receive a voucher payment if an individual for whom a **national or** limited criminal history is required under this section has been convicted of a:

(1) felony;

(2) misdemeanor related to the health or safety of a child;

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

(4) misdemeanor for operating a child care home without a

license under IC 12-17.2-5-35;

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

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

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

SECTION 11. IC 12-17.2-4-2, AS AMENDED BY P.L.145-2006, SECTION 96, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 2. (a) A license may be issued only if a child care center is in compliance with food, health, safety, and sanitation standards as determined by the division under rules adopted by the division under IC 12-17.2-2-4 or in accordance with a variance or waiver approved by the division under IC 12-17.2-2-10.

(b) A license may be issued only if the child care center is in substantial compliance with the fire and life safety rules as determined by the state fire marshal under rules adopted by the division under IC 12-17.2-2-4 or in accordance with a variance or waiver approved by the division under IC 12-17.2-2-10.

(c) The division may issue a waiver or variance regarding a determination by the division or the state fire marshal under subsections (a) and (b).

(d) 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 the child care center shall be present at all times when a child is in the care of a child care center.

(e) An individual who:

(1) is employed; or

(2) volunteers;

as a caregiver at a child care center shall maintain current certification in first aid applicable to all age groups of children cared for by the child care center.

(f) The following apply to a caregiver at a child care center:

(1) The caregiver shall obtain a physical health examination not more than thirty (30) days before or after the date the caregiver begins employment at the child care center.

(2) The child care center shall train the caregiver in recognizing symptoms of and reporting child abuse and neglect.

(3) If the caregiver is less than eighteen (18) years of age, the caregiver shall at all times when child care is being provided be directly supervised by a caregiver who is at least eighteen (18) years of age.

(4) The child care center shall train the caregiver in universal precautions.

~~(f)~~ **(g)** Upon request, the county office of family and children shall provide, within forty-eight (48) hours, excluding weekends and holidays, copies of substantiated noncompliances and other substantiated complaints filed with the division of family resources concerning a licensed child care center.

SECTION 12. IC 12-17.2-5-18.2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 18.2. (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 the child care home shall be present at all times when a child is in the care of a child care home.

(b) An individual who:

(1) is employed; or

(2) volunteers;

as a caregiver at a child care home shall maintain current certification in first aid applicable to all age groups of children cared for by the child care home.

(c) The following apply to a caregiver at a child care home:

(1) The caregiver shall obtain a physical health examination not more than thirty (30) days before or after the date the caregiver begins employment at the child care home.

(2) The child care home shall train the caregiver in recognizing symptoms of and reporting child abuse and neglect.

(3) If the caregiver is less than eighteen (18) years of age, the caregiver shall at all times when child care is being provided be directly supervised by a caregiver who is at least eighteen (18) years of age.

(4) The child care home shall train the caregiver in universal precautions.

SECTION 13. IC 12-17.2-6-2, AS AMENDED BY P.L.1-2006, SECTION 193, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 2. **(a)** An unlicensed child care ministry under section 1 of this chapter may not operate unless the child care ministry has registered with and met the requirements of the:

(1) division, **as determined by the division under rules adopted by the division under IC 12-17.2-2-4 or in accordance with a variance or waiver approved by the division under IC 12-17.2-2-10;** and ~~the~~

(2) division of fire and building safety, **as determined by the**

state fire marshal under rules adopted by the division under IC 12-17.2-2-4 or in accordance with a variance or waiver approved by the division under IC 12-17.2-2-10.

Registration forms shall be provided by the division and the division of fire and building safety.

(b) The division may issue a waiver or variance regarding a determination by the division or the state fire marshal under subsection (a).

SECTION 14. IC 12-17.2-6-5, AS AMENDED BY P.L.1-2006, SECTION 194, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 5. ~~(a) As used in this section, "primary use of the building" means the occupancy classification that is:~~

~~(1) most closely related to the intended use of the building; and~~

~~(2) determined by the rules of the fire prevention and building safety commission in effect at the time that the child care ministry is first registered.~~

~~(b)~~ **(a)** The state fire marshal shall inspect a child care ministry registered under section 2 of this chapter to ensure that the child care ministry complies with ~~the requirements of subsection (c).~~

~~(c) Except as provided in the following, a registered child care ministry shall comply with~~ all rules of the fire prevention and building safety commission applicable to the ~~primary~~ **actual** use of the building.

~~(1) A registered child care ministry with an occupant load of at least fifty (50) shall do either of the following:~~

~~(A) Install and maintain a fire alarm system in compliance with the rules of the fire prevention and building safety commission.~~

~~(B) Provide a notice on a form prescribed by the division of fire and building safety to the parents of each child who attends the ministry stating that the ministry does not have the same level of fire safety protection as a licensed child care center.~~

~~(2) Each registered child care ministry with an occupant load of less than fifty (50) shall do either of the following:~~

~~(A) Install and maintain in good operating condition at least one (1) battery operated smoke detector in each room and corridor used by the ministry.~~

~~(B) Provide a notice on a form prescribed by the division of fire and building safety to the parents of each child who attends the ministry stating that the ministry does not have the same level of fire safety protection as a licensed child care center.~~

~~(3) Each registered child care ministry shall comply with the rules of the fire prevention and building safety commission concerning fire drills.~~

~~For purposes of this subsection, occupant load is determined by dividing the total square footage of the area used by the child care ministry by thirty-five (35) and rounding any result that is not a whole number up to the next whole number.~~

~~(d)~~ **(b)** The state fire marshal shall make an inspection of a child care ministry registered under section 2 of this chapter at least annually.

~~(e)~~ **(c)** During an inspection, the state fire marshal shall inspect the structure in which the child care ministry is conducted for fire safety and life safety with respect to the structure's ~~primary~~ **actual** use.

SECTION 15. IC 12-17.2-6-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 11. ~~(a) The parent or guardian of a child shall, when the child is enrolled in a child care ministry, provide the child care ministry with proof that the child has received the required immunizations against the following:~~

~~(1) Diphtheria.~~

~~(2) Whooping cough.~~

~~(3) Tetanus.~~

~~(4) Measles.~~

~~(5) Rubella.~~

~~(6) Poliomyelitis.~~

~~(7) Mumps.~~

~~(b) A child enrolled in a child care ministry may not be required to undergo an immunization required under this section if the parents object for religious reasons. The objection must be:~~

~~(1) made in writing;~~

~~(2) signed by the child's parent or guardian; and~~

~~(3) delivered to the child care ministry.~~

~~(c) If a physician certifies that a particular immunization required by this section is or may be detrimental to the child's health, the requirements of this section for that particular immunization are inapplicable to that child until the immunization is found to be no longer detrimental to the child's health.~~

(a) A child care ministry shall maintain and annually update documentation provided by the physician of each child who is cared for by the child care ministry verifying that the child has received complete, age appropriate immunizations, including:

(1) conjugated pneumococcal vaccine; and

(2) varicella vaccine, unless the child has a demonstrated immunity to varicella.

The state department of health shall determine for each age level the immunizations that constitute complete age appropriate immunizations.

(b) A child care ministry complies with subsection (a) if:

(1) a child's parent:

(A) objects to immunizations for religious reasons; and

(B) provides documentation of the parent's objection;

(2) the child's physician provides documentation of a medical reason the child should not be immunized; or

(3) the child's physician provides documentation that the child is currently in the process of receiving complete, age appropriate immunizations;

and the child care ministry maintains and annually updates the documentation provided by the parent or physician under this subsection.

SECTION 16. IC 12-17.2-6-14, AS AMENDED BY P.L.124-2007, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 14. The child care ministry must do the following:

(1) Conduct a:

(A) national criminal history check of the operator or director of the child care ministry; and

(B) criminal history check of the child care ministry's employees and volunteers.

(2) Refrain from employing, or allowing to serve as a volunteer, an individual who:

(A) has been convicted of ~~any of the following felonies:~~

~~(i) Murder (IC 35-42-1-1).~~

~~(ii) Causing suicide (IC 35-42-1-2).~~

~~(iii) Assisting suicide (IC 35-42-1-2.5).~~

~~(iv) Voluntary manslaughter (IC 35-42-1-3).~~

~~(v) Reckless homicide (IC 35-42-1-5).~~

~~(vi) Battery (IC 35-42-2-1).~~

~~(vii) Aggravated battery (IC 35-42-2-1.5).~~

~~(viii) Kidnapping (IC 35-42-3-2).~~

~~(ix) Criminal confinement (IC 35-42-3-3).~~

~~(x) A felony sex offense under IC 35-42-4.~~

~~(xi) Carjacking (IC 35-42-5-2).~~

~~(xii) Arson (IC 35-43-1-1).~~

~~(xiii) Incest (IC 35-46-1-3).~~

~~(xiv) Neglect of a dependent (IC 35-46-1-4(a)(1) and IC 35-46-1-4(a)(2)).~~

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

~~(xvi) A felony involving a weapon under IC 35-47 or IC 35-47.5.~~

~~(xvii) A felony relating to controlled substances under IC 35-48-4.~~

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

~~(xix) A felony that is substantially equivalent to a felony listed in items (i) through (xviii) for which the conviction was entered in another state.~~ **a felony;**

(B) has been convicted of a misdemeanor:

(i) related to the health or safety of a child;
(ii) for operating a child care center without a license under IC 12-17.2-4-35; or
(iii) for operating a child care home without a license under IC 12-17.2-5-35; or
(C) is a person against whom an allegation of child abuse or neglect has been substantiated under IC 31-33.
(3) Maintain records of each criminal history check.

SECTION 17. IC 12-17.2-6-14.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: **Sec. 14.5. (a) A child care ministry shall, at no expense to the state, maintain and make available to the division upon request a copy of drug testing results for an individual who:**
(1) is employed; or
(2) volunteers;
as a caregiver at the child care ministry. The drug testing results required under this subsection must be obtained before the individual is employed or allowed to volunteer as a caregiver.

(b) A child care ministry shall maintain a written policy specifying the following:
(1) That the:
(A) use of:
(i) tobacco; or
(ii) a potentially toxic substance in a manner other than the substance's intended purpose; and
(B) use or possession of alcohol or an illegal substance;
is prohibited in the child care ministry when child care is being provided.
(2) That drug testing of individuals who serve as caregivers at the child care ministry will be:
(A) performed based on a protocol established or approved by the division; and
(B) required if an individual is suspected of noncompliance with subdivision (1).

(c) If:
(1) the drug testing results obtained under subsection (a) or (b) indicate the presence of a prohibited substance described in subsection (b)(1)(A)(ii) or (b)(1)(B); or
(2) an individual refuses to submit to a drug test;
the child care ministry shall immediately suspend or terminate the individual's employment or volunteer service.

(d) A child care ministry that suspends an individual described in subsection (c) shall maintain a written policy providing for reinstatement of the individual following rehabilitation of the individual and drug testing results for the individual that are

negative for a prohibited substance described in subsection (b)(1)(A)(ii) or (b)(1)(B).

(e) Drug testing results obtained under this section are confidential and may not be disclosed for any purpose other than the purpose described in this section.

(f) A child care ministry that does not comply with this section is subject to:

(1) denial of an application for a registration; or

(2) suspension or revocation of the child care ministry's registration;

under this chapter.

SECTION 18. IC 12-17.2-6-16 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: **Sec. 16. (a) A child care ministry shall have:**

(1) at least one (1) working telephone; and

(2) emergency contact information for each child in the care of the child care ministry;

available to employees of the child care ministry at all times.

(b) A child care ministry shall:

(1) maintain the child to staff ratio required under rules adopted by the division for each age group of children in the care of the child care ministry;

(2) provide appropriately timed, nutritionally balanced meals and snacks in sufficient quantities to meet the needs of each child; and

(3) maintain availability of drinking water at all times.

(c) A child care ministry must have two (2) exits that:

(1) do not require passage through a:

(A) garage; or

(B) storage area;

where hazardous materials are stored;

(2) are not windows;

(3) are on different sides of the facility;

(4) are not blocked; and

(5) are operable from the inside without the use of a key or any special knowledge.

(d) A child care ministry shall:

(1) conduct monthly documented fire drills:

(A) in accordance with the rules of the fire prevention and building safety commission; and

(B) that include complete evacuation of all:

(i) children; and

(ii) adults who provide child care;

in the child care ministry;

(2) maintain documentation of all fire drills conducted during

the immediately preceding twelve (12) month period, including:

(A) the date and time of the fire drill;

(B) the name of the individual who conducted the fire drill;

(C) the weather conditions at the time of the fire drill; and

(D) the amount of time required to fully evacuate the child care ministry; and

(3) maintain a two and one-half (2 1/2) pound or greater ABC multiple purpose fire extinguisher:

(A) on each floor; and

(B) in the kitchen area;

of the child care ministry.

(e) A child care ministry shall provide for a safe environment by ensuring that the following items are placed in areas that are inaccessible to the children in the child care ministry's care:

(1) Firearms and ammunition.

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

(f) A child care ministry shall have:

(1) working smoke detectors that meet the child care home or child care center licensing standards adopted by rule for smoke detectors in the type of facility that the child care ministry operates; and

(2) hot and cold running water;

in the area of the child care ministry where children are cared for.

SECTION 19. IC 12-17.2-6-17 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: **Sec. 17. (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 child care ministry shall be present at all times when a child is in the care of the child care ministry.**

(b) An individual who:

(1) is employed; or

(2) volunteers;

as a caregiver at a child care ministry shall maintain current certification in first aid applicable to all age groups of children cared for by the child care ministry.

(c) The following apply to a caregiver at a child care ministry:

(1) The caregiver shall obtain a physical health examination not more than thirty (30) days before or after the date the caregiver begins employment at the child care ministry.

(2) The child care ministry shall train the caregiver in recognizing symptoms of and reporting child abuse and neglect.

(3) If the caregiver is less than eighteen (18) years of age, the caregiver shall at all times when child care is being provided

be directly supervised by a caregiver who is at least eighteen (18) years of age.

(4) The child care ministry shall train the caregiver in universal precautions.

(d) A child care ministry shall ensure that a child in the child care ministry's care is continually supervised by a caregiver.

SECTION 20. IC 12-17.2-6-18 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: **Sec. 18. (a) The division may grant a probationary registration to a child care ministry that is temporarily unable to comply with a rule if:**

(1) the noncompliance does not present an immediate threat to the health and well-being of the children in the care of the child care ministry;

(2) the child care ministry files a plan with the division or the state fire marshal to correct the areas of noncompliance within the probationary period; and

(3) the division or state fire marshal approves the plan.

(b) A probationary registration is valid for not more than six (6) months. The division may extend a probationary registration for one (1) additional period of six (6) months.

(c) A registration is invalidated when a probationary registration is issued.

(d) When the probationary registration expires, the division shall reinstate the original registration or revoke the registration.

(e) Upon receipt of a probationary registration, the child care ministry shall return to the division the previously issued registration.

(f) The division shall:

(1) upon issuing a probationary registration under this section, provide written notice to the child care ministry that the division will provide the notice required under subdivision (2); and

(2) not more than seven (7) days after issuing a probationary registration under this section, publish notice under IC 5-3-1 and provide written notice to the parent or guardian of each child enrolled in the child care ministry of the:

(A) issuance of the probationary registration; and

(B) reason for the issuance of the probationary registration.

SECTION 21. IC 12-17.2-6-19 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: **Sec. 19. (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 child care ministry.**

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

(1) issue an emergency or other temporary order under IC 4-21.5-4 requiring the child care ministry to immediately cease operation; and

(2) contact the parent or guardian of each child in the care of the child care ministry to inform the parent or guardian:

(A) that the division has issued an order to require the child care ministry to cease operation; and

(B) of the reason for the order to cease operation;

pending the outcome of proceedings conducted under sections 21 through 23 of this chapter.

(c) An emergency or other 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 22. IC 12-17.2-6-20 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: **Sec. 20. Except as provided in section 19 or 30 of this chapter, the division shall give a child care ministry thirty (30) calendar days written notice by certified mail of an enforcement action against the child care ministry. The child care ministry shall also be provided an opportunity for an informal meeting with the division. The child care ministry must request the meeting within ten (10) working days after receipt of the certified notice.**

SECTION 23. IC 12-17.2-6-21 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: **Sec. 21. (a) An administrative hearing concerning the decision of the division to impose a sanction under this chapter shall be provided upon a written request by the child care ministry. The request must be made within thirty (30) calendar days after the child care ministry receives an order or notice under section 19 or 20 of this chapter. The written request must be made separately from an informal meeting request made under section 20 of this chapter.**

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

SECTION 24. IC 12-17.2-6-22 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: **Sec. 22. A hearing requested under section 21 of this chapter shall be held in accordance with IC 4-21.5-3.**

SECTION 25. IC 12-17.2-6-23 IS ADDED TO THE INDIANA

CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: **Sec. 23. The division shall issue a decision within sixty (60) calendar days after the conclusion of a hearing held under section 21 of this chapter.**

SECTION 26. IC 12-17.2-6-24 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: **Sec. 24. If a child care ministry's registration is suspended, the child care ministry shall cease operation and may not display the registration.**

SECTION 27. IC 12-17.2-6-25 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: **Sec. 25. To reinstate a suspended registration, the following must occur:**

(1) The child care ministry must, within thirty (30) days after receiving notice of the suspension, submit a plan of corrective action to the division for approval.

(2) The plan must outline the steps and timetable for immediate correction of the violations that caused the division to suspend the registration.

(3) The division must approve the plan.

SECTION 28. IC 12-17.2-6-26 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: **Sec. 26. Following the suspension of a child care ministry's registration, the division shall do one (1) of the following:**

(1) Reinstate the registration.

(2) Revoke the registration.

(3) Issue to the child care ministry a new registration.

(4) Deny the child care ministry's reapplication for a registration.

SECTION 29. IC 12-17.2-6-27 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: **Sec. 27. A child care ministry shall cease operation when the registration of the child care ministry is revoked.**

SECTION 30. IC 12-17.2-6-28 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: **Sec. 28. (a) After a child care ministry's registration is revoked or suspended, the division shall publish notice of the revocation or suspension under IC 5-3-1 and notify in writing each person responsible for a child in the care of the child care ministry that the registration has been revoked or suspended.**

(b) The written notice shall be sent to the last known address of each person responsible for a child in the care of the child care ministry and shall state that the registration of the child care

ministry has been revoked or suspended.

SECTION 31. IC 12-17.2-6-29 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: **Sec. 29. A final decision of the division made after a hearing under this chapter is subject to judicial review under IC 4-21.5-5.**

SECTION 32. IC 12-17.2-6-30 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: **Sec. 30. (a) The division shall investigate a report of an unregistered child care ministry and report the division's findings to the attorney general and to the division's attorney and the prosecuting attorney in the county where the child care ministry is located.**

(b) The attorney general or the division's attorney 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 care ministry if there is reasonable cause to believe that:

(A) the child care ministry is operating without a registration required under this article; or

(B) a child care ministry'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.

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

(c) The division may provide for the removal of children from a child care ministry described in subsection (b).

(d) A child care ministry subject to injunctive relief under this section is entitled to an informal meeting with the division after the injunctive relief is ordered.

(e) The civil penalties collected under this section shall be deposited in the division of family resources child care fund established by IC 12-17.2-2-3.

(f) Section 35 of this chapter does not apply to the civil penalties imposed under this section.

SECTION 33. IC 12-17.2-6-31 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: **Sec. 31. A court order granted under section 30(b)(2)(A) of this chapter expires when the child care ministry is issued a registration.**

SECTION 34. IC 12-17.2-6-32 IS ADDED TO THE INDIANA

CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: **Sec. 32. A court order granted under section 30(b)(2)(B) of this chapter expires upon the later of the following:**

(1) Sixty (60) calendar days after the order is issued.

(2) When a final division decision is issued under sections 21 through 23 of this chapter if notice of an enforcement action is issued under section 20 of this chapter.

SECTION 35. IC 12-17.2-6-33 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: **Sec. 33. (a) The following constitute sufficient grounds for revocation of a registration:**

(1) A determination by the department of child services of child abuse or neglect (as defined in IC 31-9-2-14) by:

(A) the operator or director of the child care ministry;

(B) an employee of the child care ministry who has direct contact, on a regular and continuous basis, with children who are under the direct supervision of the child care ministry; or

(C) a volunteer of the child care ministry who has direct contact, on a regular and continuous basis, with children who are under the direct supervision of the child care ministry.

(2) A criminal conviction of an employee of the child care ministry who has direct contact, on a regular and continuous basis, with children who are under the direct supervision of the child care ministry, or a volunteer of the child care ministry who has direct contact, on a regular and continuous basis, with children who are under the direct supervision of the child care ministry, of 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 without a license under IC 12-17.2-4-35.

(D) A misdemeanor for operating a child care home without a license under IC 12-17.2-5-35.

(3) A determination by the division that the child care ministry made false statements in the child care ministry's application for registration.

(4) A determination by the division that the child care ministry made false statements in the records required by the division.

(5) A determination by the division that the child care ministry previously operated a:

(A) child care center without a license under IC 12-17.2-4;

or

(B) child care home without a license under IC 12-17.2-5.

(b) Notwithstanding subsection (a)(2), if:

(1) a registration is revoked due to a criminal conviction of an employee or a volunteer of the child care ministry; and

(2) the division determines that the employee or volunteer has been dismissed by the child care ministry;

the criminal conviction of the former employee or former volunteer does not require revocation of the child care ministry's registration.

SECTION 36. IC 12-17.2-6-34 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: **Sec. 34. (a) A child care ministry shall operate in compliance with the rules established under this article and is subject to the disciplinary sanctions under subsection (b) if the division finds that the child care ministry has violated this article.**

(b) The division may impose any of the following sanctions when the division finds that a child care ministry has committed a violation under subsection (a):

(1) After complying with the procedural provisions in sections 20 through 23 of this chapter:

(A) suspend the child care ministry's registration for not more than six (6) months; or

(B) revoke the child care ministry's registration.

(2) Seek civil remedies under section 30 of this chapter.

SECTION 37. IC 12-17.2-6-35 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: **Sec. 35. (a) In addition to the other penalties imposed under this chapter, the division may impose a civil penalty of not more than one thousand dollars ($1,000) for a violation of this article.**

(b) The division shall deposit the civil penalties collected under this section in the division of family resources child care fund established by IC 12-17.2-2-3.

SECTION 38. IC 12-17.2-6-36 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: **Sec. 36. A person who knowingly or intentionally violates this chapter commits a Class B misdemeanor.**

SECTION 39. IC 12-17.2-6-37 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: **Sec. 37. (a) The department of child services shall conduct an investigation of a claim of abuse or neglect in a child care ministry.**

(b) After an investigation under subsection (a), the department of child services shall make a determination of whether or not

1 **abuse or neglect occurred at the child care ministry.**
2 **(c) If the department of child services makes a determination**
3 **under IC 31-33-8-12 that abuse or neglect at the child care**
4 **ministry is substantiated, the department shall send a copy of its**
5 **report to the appropriate office of the division.**

PRELIMINARY DRAFT
No. 3341

PREPARED BY
LEGISLATIVE SERVICES AGENCY
2011 GENERAL ASSEMBLY

DIGEST

Citations Affected: IC 12-17.2.

Synopsis: Child care ministries. Requires the division of family resources to establish a child care advisory committee for child care ministries. Specifies certain requirements for registration of child care ministries.

Effective: July 1, 2011.

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:

SECTION 1. IC 12-17.2-2-1, AS AMENDED BY P.L.1-2009, SECTION 105, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 1. The division shall perform the following duties:

(1) Administer the licensing and monitoring of child care centers or child care homes in accordance with this article.

(2) Ensure that a national criminal history background check of the applicant is completed through the state police department under IC 10-13-3-39 before issuing a license.

(3) Ensure that a criminal history background check of a child care ministry applicant for registration is completed before registering the child care ministry.

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

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

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

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

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

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

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

(i) the identity of the child care provider;

(ii) the date of the violation; and

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

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

(C) Other relevant information.

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

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

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

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

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

SECTION 2. IC 12-17.2-2.5-1, AS ADDED BY P.L.126-2007, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 1. The division shall establish a child care advisory committee for each of the following categories of child care:

(1) Child care homes.

(2) Child care centers.

(3) Child care ministries.

SECTION 3. IC 12-17.2-2.5-3, AS ADDED BY P.L.126-2007, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 3. Each committee must consist of members appointed:

(1) by the director or the director's designee; and

(2) to provide diversity in representing the types of child care that comprise the committee's category specified in section 1 of this chapter, including size, licensure **or registration** status, accreditation status, and geographic location in Indiana.

SECTION 4. IC 12-17.2-6-2, AS AMENDED BY P.L.1-2006, SECTION 193, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 2. An unlicensed child care ministry under section 1 of this chapter may not operate unless the child care ministry has registered with and met the requirements of **this chapter,** the division, and the division of fire and building safety. Registration forms shall be provided by the division and the division of fire and building safety.

SECTION 5. IC 12-17.2-6-4, AS AMENDED BY P.L.16-2006, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 4. (a) The division shall inspect a child care ministry registered under section 2 of this chapter to ensure that the

child care ministry complies with:

(1) this chapter; and

(2) the rules of the division adopted under IC 12-17.2-2-5(a).

(b) The division shall make an inspection described in subsection (a):

(1) at least semiannually; and

(2) additionally as determined necessary by the division, but not more than four (4) inspections per year per child care ministry.

SECTION 6. IC 12-17.2-6-16 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: **Sec. 16. (a) A child care ministry caregiver must be at least:**

(1) seventeen (17) years of age and enrolled in high school; or

(2) eighteen (18) years of age and possess a high school diploma or equivalent.

(b) A child in the care of a child care ministry must at all times be under the direct supervision of a caregiver. If the child is less than twenty-five (25) months of age, the child must at all times be under the direct supervision of a caregiver who is at least twenty-one (21) years of age.

(c) Except as provided in subsection (d), a child care ministry shall comply with the child to staff ratio that would apply to the child care ministry if the child care ministry were licensed under IC 12-17.2-4 or IC 12-17.2-5.

(d) The staff part of the child to staff ratio required by subsection (c) for the direct supervision of children may be reduced by fifty percent (50%):

(1) during a period when more than fifty percent (50%) of the children are sleeping; and

(2) if the normal child to staff ratio is maintained on the premises during the period described in subdivision (1).

This subsection does not apply if any child in the care of the applicable staff is less than thirteen (13) months of age.

SECTION 7. IC 12-17.2-6-17 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: **Sec. 17. (a) A child care ministry shall send to the division written notice, on a form provided by the division, of the following:**

(1) An injury:

(A) that is incurred by a child while the child is in the care of a child care ministry caregiver; and

(B) that requires the attention of medical personnel.

(2) The death of a child that occurs while the child is on the premises of the child care ministry or in the care of a child care ministry caregiver.

The notice required under this subsection must be sent to the

division not more than five (5) calendar days after the occurrence of an injury described in subdivision (1) or a death described in subdivision (2).

(b) Except as provided in subsection (c), information:

(1) obtained by the division under this section; and

(2) from which the identity of an individual child or of a guardian, custodian, or relative of a child may be ascertained;

is confidential and may not be released to any person.

(c) Information described in subsection (b) may be released as follows:

(1) To a state agency involved in registration of the child care ministry.

(2) To a legally mandated child protection agency.

(3) To a law enforcement agency.

(4) If the information is specific to a particular child, as follows:

(A) To the parent, guardian, or custodian of the child.

(B) To an agency that:

(i) has legal responsibility to care for the child; and

(ii) places the child at the child care ministry.

I. STATUTORY DIRECTIVE

IC 12-17.2-3.3, establishing the Committee on Child Care, was enacted in P.L. 126-2007. IC 12-17.2-3.3-5 specifies the Committee responsibilities as follows:

Sec. 5. (a) The committee shall:

(1) study the system of child care regulation; and
(2) report and make recommendations concerning the system of child care regulation to the legislative council in an electronic format under IC 5-14-6 not later than October 31 of each year.

(b) The committee's recommendations under subsection (a) must further the following child care regulation purposes:

(1) To provide support for families in need of reliable, high quality child care.
(2) To encourage and support high quality child care providers.
(3) To allow for a variety of methods of child care provision and allow each family to determine the method preferred for the family's children.
(4) To promote access to available and affordable child care by parents.
(5) To encourage the state to access all available federal funds for child care.

(c) The committee's program of study must include consideration of the following:

(1) The effect of child care and child care regulation on families.
(2) Encouragement of high quality child care.
(3) Issues related to the child care workforce, including job satisfaction, compensation, and turnover.
(4) A review of child care models.
(5) Ensuring the safety of children.
(6) Any need for reorganization and refocusing of governmental agencies responsible for regulation of child care.
(7) Parental rights.

II. INTRODUCTION AND REASONS FOR STUDY

Current Indiana law provides for licensure and registration of various types of child care providers, including child care homes, child care centers, and child care ministries. Licensure and registration are not required for certain child care homes. Other requirements apply to child care providers that receive payment for child care under the federal Child Care and Development Fund program administered under 45 CFR 98 and 45 CFR 99, regardless of licensure or registration.

The Committee was formed to further the statutory purpose of supporting quality child care and assisting families by improving access to and choice of child care providers. Advisory committees concerning child care homes and child care centers were formed as a result of legislation passed in 2007. The purposes of the advisory committees are to advise the Division of Family Resources concerning child care regulation specific to the type of child care provider represented by the advisory committee, and to annually report to the Committee.

III. SUMMARY OF WORK PROGRAM

The Committee met three times during the 2010 interim.

First Meeting

The first meeting of the Committee was held on September 9, 2010. The Committee considered testimony concerning the following:

(1) Updates from the Bureau of Child Care (BCC) of the Division of Family Resources of the Family and Social Services Administration (FSSA) and interested parties concerning:

- (A) Child Care and Development Fund (CCDF), including the waiting list, funding, and eligibility requirements.
- (B) Implementation and evaluation of the Paths to Quality program (PTQ).
- (C) Child care quality projects implemented with the assistance of American Recovery and Revitalization Act (ARRA) funding.

(2) An update from the Indiana State Department of Health (ISDH) concerning the Sunny Start program.

(3) Reports from representatives of the child care home and child care center advisory committees.

Second Meeting

The second meeting of the Committee was held on September 29, 2010. The Committee considered testimony concerning the following:

(1) A chart comparing legal requirements that apply to Indiana child care providers.
(2) Information from the BCC concerning information related to child care provider inspections, complaints, and procedures to address identified issues.
(3) A report about an ARRA-funded child care ministry quality project performed by Purdue University and the United Way.
(4) A report from a representative of a child care ministry advisory group.

The Committee discussed issues identified through the testimony received during the first two meetings for possible 2011 legislation and final report recommendations.

Third Meeting

The third meeting of the Committee was held on October 27, 2010. The Committee considered the following:

(1) Proposed legislation.
(2) The final report of the Committee.

IV. SUMMARY OF TESTIMONY

The Committee heard testimony from representatives of the following groups:

(1) Bureau of Child Care of the Division of Family Resources of the Family and Social Services Administration.
(2) The Division of Family Resources child care advisory committees.
(3) The Division of Family Resources child care ministry advisory group.
(4) Indiana Association for the Education of Young Children.
(4) Indiana Association for Child Care Resource and Referral.
(5) Indiana State Department of Health.
(6) Purdue University.
(7) Other interested parties.

Child Care and Development Fund

The Committee heard updates concerning the federal Child Care and Development Fund voucher program, pursuant to a recommendation from the Committee's 2009 Final Report. The members raised additional questions concerning legal requirements that apply to various types of child care providers participating in the CCDF program and expenditure of the funding according to provider type, and received information concerning those issues.

Child Care Quality

The Committee heard testimony concerning child care quality research and comparisons, a Purdue University/United Way voluntary child care ministry quality project, and the Paths to Quality program (including its history, implementation, ongoing evaluation by Purdue University, and serving as a model for other states). The members raised additional questions and received information concerning goals for participation by the various types of child care providers and challenges to participation.

Sunny Start

The Committee received an update concerning progress of the Sunny Start program in providing information to families concerning child care, access to health insurance, early care and development, and family support and education. The members raised questions and received information concerning coordination of resources and direction to improve access to appropriate child care (including child care for children with special needs), and medical and mental health care.

Advisory Reports

The Committee received reports from the Child Care Homes Advisory Committee and the Child Care Centers Advisory Committee concerning the work of the committees throughout the previous year. The Committee also received a report from a group representing child care ministries.

Indiana Child Care Regulation Comparison

The Committee received a chart compiled by staff reflecting the legal requirements that apply to various types of child care providers. The members discussed concerns about disparities between regulations and recommendations for removing the disparities.

Child Care Provider Inspections and Complaints

The Committee received data and information related to the work of the BCC in inspecting and investigating child care providers for compliance with applicable legal requirements, including processes for investigation and resolution of regulatory noncompliance, dangerous conditions,

and complaints.

Minutes and attachments containing more detailed information concerning the Committee's 2010 interim work may be found at http://www.in.gov/legislative/interim/

V. COMMITTEE FINDINGS AND RECOMMENDATIONS

The Committee made the following findings of fact and recommendations:

The Committee finds the following:

(1) Disparities currently exist among the legal requirements applying to various types of child care providers in Indiana (as demonstrated by the comparison[1] discussed during the September 29, 2010, meeting of the Committee). Disparities of most concern to the Committee include those related to the following:

(A) Staff/child ratios.
(B) Supervision of children by adult caregivers.
(C) Drug testing and national criminal history checks.
(D) Staff training in cardiopulmonary resuscitation, first aid, child abuse and neglect, and universal precautions.
(E) Fire and other hazardous conditions.
(F) Telephone access and emergency contacts.
(G) Sanitation and nutrition.

(2) The disparity in basic health and safety requirements applying to various types of child care providers creates disparities in basic health and safety risks to Indiana children in child care.

(3) Government funding of child care should be expended only with the assurance that the child care is safe and healthy for children.

(4) Current law should be amended to better ensure that the basic health and safety needs of all children in child care are met by child care providers, regardless of type.

The Committee recommends the following:

(1) PD ??? should be introduced for consideration during the 2011 session of the Indiana General Assembly.

(2) PD ???...

(3) The Committee should continue to receive annual updates from the State Department of Health, the Bureau of Child Care, the child care advisory committees, and other agencies and interested parties to follow-up on the Committee's recommendations and the ongoing work of those parties in relation

[1]Attachment 1.

to child care in Indiana.

Draft

WITNESS LIST

Melanie Brizzi, Bureau of Child Care, Division of Family Resources, Family and Social Services Administration
Judith Ganser, M.D., Indiana State Department of Health
Noel Hanson, Child Care Home Advisory Committee, Division of Family Resources
Carol Johnson, Child Care Center Advisory Committee, Division of Family Resources
Barb Newton, Child Care Ministry Advisory Group
Karen Ruprecht, Purdue University
Patty Ryan, Indiana Association for Child Care Resource and Referral
Marsha Thompson, Indiana Association for Child Care Resource and Referral
Dianna Wallace, Indiana Association for the Education of Young Children

Draft