

PROPOSED AMENDMENT

HB 1102 # 2

DIGEST

Child care regulation. Incorporates LS 6991 into the bill. Revises the definition of "child care home". Amends certain licensing requirements for a class II child care home and a child care center. Allows certain child care programs at schools to provide services to business employees' children when the business enters into a contract with the school.

- 1 Page 1, between the enacting clause and line 1, begin a new
2 paragraph and insert:
3 "SECTION 1. IC 12-7-2-28.6, AS AMENDED BY P.L.124-2007,
4 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
5 JULY 1, 2024]: Sec. 28.6. (a) **Except as provided in subsection (c),**
6 "child care home", for purposes of IC 12-17.2, means a residential
7 structure in which at least six (6) children (~~not including the children~~
8 ~~for whom the provider is a parent, stepparent, guardian, custodian, or~~
9 ~~other relative or any child who is at least fourteen (14) years of age and~~
10 ~~does not require child care~~) at any time receive child care from a
11 provider:
12 (1) while unattended by a parent, legal guardian, or custodian;
13 (2) for regular compensation; and
14 (3) for more than ~~four (4)~~ **six (6)** hours **per day** but less than
15 twenty-four (24) hours ~~in each of~~ **per day for** ten (10)
16 consecutive days, ~~per year, excluding intervening~~ **not including**
17 Saturdays, Sundays, and holidays.
18 (b) The term includes:
19 (1) a class I child care home; and
20 (2) a class II child care home.
21 (c) **A child who is:**
22 (1) **a relative of a provider;**
23 (2) **under the custody or guardianship of a provider; or**
24 (3) **at least fourteen (14) years of age and does not require**
25 **child care;**
26 **is not a child described under subsection (a).**

1 SECTION 2. IC 12-17.2-1-1, AS AMENDED BY P.L.56-2023,
 2 SECTION 116, IS AMENDED TO READ AS FOLLOWS
 3 [EFFECTIVE JULY 1, 2024]: Sec. 1. This article does not apply to the
 4 following:

5 (1) A child care center or child care home licensed or operated by
 6 any of the following:

7 (A) Programs for children in grades kindergarten through 12
 8 that are operated under the authority of the department of
 9 education or that are operated with the assistance of the
 10 department of education.

11 (B) The division of mental health and addiction.

12 (C) The Indiana department of health.

13 (D) The department of correction.

14 **(2) A person who provides child care in the person's**
 15 **residential structure, if the person:**

16 **(A) does not receive regular compensation for child care;**

17 **(B) cares only for children who are related to the provider;**

18 **(C) cares for less than six (6) children, not including a child**
 19 **who is:**

20 **(i) a relative of a provider;**

21 **(ii) under the custody or guardianship of a provider; or**

22 **(iii) at least fourteen (14) years of age and does not**
 23 **require child care; or**

24 **(D) provides child care for less than six (6) hours per day,**
 25 **but not more than thirty (30) hours per week.**

26 ~~(2)~~ **(3) A county jail or detention center.**

27 SECTION 3. IC 12-17.2-2-8, AS AMENDED BY P.L.81-2022,
 28 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 29 JULY 1, 2024]: Sec. 8. The division shall exempt from licensure the
 30 following programs:

31 (1) A program for children enrolled in grades kindergarten
 32 through 12 that is operated by the department of education or a
 33 public or private school.

34 (2) A program for children who become at least three (3) years of
 35 age as of December 1 of a particular school year (as defined in
 36 IC 20-18-2-17) that is operated by the department of education or
 37 a public or private school.

38 (3) A nonresidential program for a child that provides child care
 39 for less than four (4) hours a day.

40 (4) A recreation program for children that operates for not more

- 1 than ninety (90) days in a calendar year.
- 2 (5) A program whose primary purpose is to provide social,
3 recreational, or religious activities for school age children, such
4 as scouting, boys club, girls club, sports, or the arts.
- 5 (6) A program operated to serve migrant children that:
- 6 (A) provides services for children from migrant worker
7 families; and
- 8 (B) is operated during a single period of less than one hundred
9 twenty (120) consecutive days during a calendar year.
- 10 (7) A child care ministry registered under IC 12-17.2-6.
- 11 (8) A child care home if the provider
- 12 ~~(A) does not receive regular compensation;~~
- 13 ~~(B) cares only for children who are related to the provider;~~
- 14 ~~(C) cares for less than six (6) children; not including children~~
15 ~~for whom the provider is a parent, stepparent, guardian;~~
16 ~~eustodian, or other relative; or~~
- 17 ~~(D) operates to serve migrant children.~~
- 18 (9) A child care program operated by a public or private school
19 that:
- 20 (A) provides day care on the school premises for children of
21 students or employees of schools in the school corporation in
22 which the public or private school is located;
- 23 (B) complies with health, safety, and sanitation standards as
24 determined by the division under section 4 of this chapter for
25 child care centers or in accordance with a variance or waiver
26 of a rule governing child care centers approved by the division
27 under section 10 of this chapter; and
- 28 (C) substantially complies with the fire and life safety rules as
29 determined by the state fire marshal under rules adopted by the
30 division under section 4 of this chapter for child care centers
31 or in accordance with a variance or waiver of a rule governing
32 child care centers approved by the division under section 10 of
33 this chapter.
- 34 (10) A school age child care program (commonly referred to as a
35 latch key program) established under IC 20-26-5-2 that is
36 operated by:
- 37 (A) the department of education;
- 38 (B) a public or private school; or
- 39 (C) a public or private organization under a written contract
40 with:

- 1 (i) the department of education; or
 2 (ii) a public or private school.
- 3 (11) A child care program that:
 4 (A) is operated by a public or private organization under a
 5 contract with a public or private school;
 6 (B) serves children who are enrolled in the public or private
 7 school in:
 8 (i) grades kindergarten through 12; or
 9 (ii) a preschool program offered by a public or private
 10 school as described in this subdivision; and
 11 (C) serves children who are:
 12 (i) attending school through remote or e-learning due to a
 13 disaster emergency declared under IC 10-14-3-12 or
 14 IC 10-14-3-29; or
 15 (ii) participating in a learning recovery program that
 16 administers an assessment to measure student learning loss
 17 and provides Indiana academic standards aligned
 18 instruction.
- 19 (12) An educational program:
 20 (A) consisting of a group of not more than ten (10) students
 21 who attend the educational program in lieu of attending
 22 prekindergarten or kindergarten through grade 12 at a public
 23 or private school;
 24 (B) whose students meet in a single classroom in person or
 25 outside a classroom and which may include mixed age level
 26 groupings; and
 27 (C) that is under the supervision of a teacher or tutor.
- 28 (13) If located in the same public or private school building:
 29 (A) a preschool program that is operated by the public or
 30 private school; and
 31 (B) either or both of the following:
 32 (i) A child care program described in subdivision (9).
 33 (ii) A school age child care program described in
 34 subdivision (10).
- 35 **(14) A child care program operated by a public or private**
 36 **school that:**
 37 **(A) provides child care for children of employees of a**
 38 **business or organization with which the school has entered**
 39 **into a contract to provide services;**
 40 **(B) complies with health, safety, and sanitation standards**

1 **as determined by the division under section 4 of this**
 2 **chapter for child care centers or in accordance with a**
 3 **variance or waiver of a rule governing child care centers**
 4 **approved by the division under section 10 of this chapter;**
 5 **and**
 6 **(C) substantially complies with the fire and life safety rules**
 7 **as determined by the state fire marshal under rules**
 8 **adopted by the division under section 4 of this chapter for**
 9 **child care centers or in accordance with a variance or**
 10 **waiver of a rule governing child care centers approved by**
 11 **the division under section 10 of this chapter.**

12 SECTION 4. IC 12-17.2-4-12 IS AMENDED TO READ AS
 13 FOLLOWS [EFFECTIVE JULY 1, 2024]: Sec. 12. (a) A license for a
 14 child care center expires ~~two (2)~~ **three (3)** years after the date of
 15 issuance, unless revoked, modified to a probationary or suspended
 16 status, or voluntarily returned.

17 (b) A license issued under this chapter:

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

22 (c) A current license shall be publicly displayed.

23 (d) When a licensee submits a timely application for renewal, the
 24 current license shall remain in effect until the division issues a license
 25 or denies the application.

26 (e) A licensee shall publicly display and make available, as a
 27 handout, written documentation of:

- 28 (1) any changes in the status of the licensee's license;
- 29 (2) a telephone number and an Internet site where information
- 30 may be obtained from the division concerning:
 - 31 (A) the current status of the licensee's license;
 - 32 (B) any complaints filed with the division concerning the
 - 33 licensee; and
 - 34 (C) violations of this article by the licensee; and
- 35 (3) a telephone number of the office of the Indiana child care
- 36 resource and referral program of the county in which the child
- 37 care center is located."

38 Page 1, after line 16, begin a new paragraph and insert:

39 "SECTION 5. IC 12-17.2-5-3.7, AS ADDED BY P.L.53-2018,
 40 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

- 1 JULY 1, 2024]; Sec. 3.7. (a) A licensee that cares for children who are
 2 less than twelve (12) months of age shall:
- 3 (1) complete the training course provided or approved by the
 4 division under IC 12-17.2-2-1(10) concerning safe sleeping
 5 practices as required by section 6.3(a)(3) or ~~6.5(a)(9)~~ **6.5(9)** of
 6 this chapter, whichever is applicable; and
 - 7 (2) ensure that all caregivers of children who are less than twelve
 8 (12) months of age follow safe sleeping practices.
- 9 (b) If a licensee violates subsection (a), the division may do the
 10 following with respect to each violation determined during an
 11 inspection of the child care home:
- 12 (1) On the first inspection during which a violation is determined
 13 during a licensure period, issue a formal warning letter stating the
 14 division's intent to take administrative action and impose a civil
 15 penalty for any future violation.
 - 16 (2) On the second inspection during which a violation is
 17 determined during a licensure period, impose a civil penalty of
 18 fifty dollars (\$50) for each violation determined during the
 19 inspection.
 - 20 (3) On the third inspection during which a violation is determined
 21 during a licensure period, impose a civil penalty of seventy-five
 22 dollars (\$75) for each violation determined during the inspection.
 - 23 (4) On the fourth inspection during which a violation is
 24 determined during a licensure period:
 - 25 (A) place the child care home's license on probation for not
 26 more than six (6) months; and
 - 27 (B) impose a civil penalty of one hundred dollars (\$100) for
 28 each violation determined during the inspection.
 - 29 (5) On the fifth inspection during which a violation is determined
 30 during a licensure period:
 - 31 (A) suspend or revoke the child care home's license for one (1)
 32 year; and
 - 33 (B) impose a civil penalty of two hundred fifty dollars (\$250)
 34 for each violation determined during the inspection.
- 35 (c) The division shall send to the licensee written notice:
- 36 (1) of an action taken under subsection (b), specifying the reason
 37 for the action and amount of any monetary civil penalty; and
 - 38 (2) that failure to pay any monetary civil penalty may result in
 39 revocation of the child care home's license for not more than two
 40 (2) years.

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

4 (e) In addition to the actions described in subsection (b), the
5 division may seek further disciplinary action provided for under this
6 article, as determined by the director.

7 SECTION 6. IC 12-17.2-5-6.5, AS AMENDED BY P.L.74-2022,
8 SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
9 JULY 1, 2024]: Sec. 6.5. (a) To qualify for a license to operate a class
10 II child care home under this chapter, a person must do the following:

11 (1) Provide all child care services on the first story of the child
12 care home unless the class II child care home meets the
13 exceptions to the first story requirements contained in the Indiana
14 building code adopted by the fire prevention and building safety
15 commission in effect at the time the class II child care home
16 provider applies for licensure.

17 (2) Provide a smoke detection system that is:

18 (A) hard wired to the building's electrical system; and

19 (B) wired in a manner that activates all of the detector devices
20 in the building when one (1) detector device is activated.

21 (3) Provide a fire extinguisher in each room that is used to
22 provide child care services.

23 (4) Meet:

24 (A) the exit requirements for an E-3 building occupancy
25 classification under the Indiana building code adopted by the
26 fire prevention and building safety commission, except for any
27 illumination requirements, in effect at the time the class II
28 child care home provider initially applies for licensure; and

29 (B) the illumination requirements established in section
30 6.3(b)(3) of this chapter.

31 (5) Provide a minimum of thirty-five (35) square feet for each
32 child.

33 (6) Conduct fire drills required under article 37 of the Indiana fire
34 prevention code adopted by the fire prevention and building
35 safety commission in effect at the time the class II child care
36 home provider applies for licensure.

37 (7) Apply for a license before July 1, 1996, or after June 30, 2001.

38 (8) Comply with rules adopted by the division of family resources
39 for class II child care homes.

40 (9) Complete the training course taught or approved by the

1 division concerning safe sleeping practices for a child within the
2 person's care as described in IC 12-17.2-2-1(10).

3 ~~(b) To qualify for a license to operate a class H child care home~~
4 ~~under this chapter, a person, before applying for the license, must have:~~

5 ~~(1) a class I child care home license; or~~

6 ~~(2) at least one (1) year of experience as a caregiver in a child~~
7 ~~care home or child care center.~~

8 SECTION 7. IC 36-7-4-1108, AS AMENDED BY P.L.145-2006,
9 SECTION 374, IS AMENDED TO READ AS FOLLOWS
10 [EFFECTIVE JULY 1, 2024]: Sec. 1108. (a) This section applies only
11 to a child care home that is used as the primary residence of the person
12 who operates the child care home **regardless of whether the child**
13 **care home meets the definition set forth in IC 12-7-2-28.6.**

14 ~~(b) As used in this section, "child care home" has the meaning set~~
15 ~~forth in IC 12-7-2-28.6.~~

16 ~~(c) (b) Except as provided in subsection (e);~~ A zoning ordinance
17 may not do any of the following:

18 (1) Exclude a child care home from a residential area solely
19 because the child care home is a business.

20 (2) Impose limits on the number of children that may be served by
21 a child care home at any one (1) time that vary from the limits set
22 forth in IC 12-7-2-33.7 and IC 12-7-2-33.8.

23 (3) Impose requirements or restrictions upon child care homes
24 that vary from the requirements and restrictions imposed upon
25 child care homes by rules adopted by the division of family
26 resources or the fire prevention and building safety commission.

27 ~~(d) (c) Notwithstanding subsection (e); (b),~~ a child care home may
28 be required to meet the same:

29 (1) zoning requirements;

30 (2) developmental standards; and

31 (3) building codes;

32 that apply to other residential structures in the same residential district
33 or classification as the child care home.

34 ~~(e) A zoning ordinance:~~

35 ~~(1) that is in effect on July 1, 1993; and~~

36 ~~(2) that:~~

37 ~~(A) excludes a child care home from a residential area solely~~
38 ~~because the child care home is a business;~~

39 ~~(B) imposes limits on the number of children that may be~~
40 ~~served by a child care home at any one (1) time that vary from~~

1 the limits set forth in IC ~~12-7-2-33.7~~ and IC ~~12-7-2-33.8~~; or
2 (☺) imposes requirements or restrictions upon child care
3 homes that vary from the requirements and restrictions
4 imposed upon child care homes by rules adopted by the
5 division of family resources or the fire prevention and building
6 safety commission;

7 is not subject to subsection (c) until July 1, 1994."

8 Renumber all SECTIONS consecutively.

(Reference is to HB 1102 as introduced.)