



Reprinted
January 29, 2021

HOUSE BILL No. 1060

DIGEST OF HB 1060 (Updated January 28, 2021 3:50 pm - DI 119)

Citations Affected: IC 4-21.5; IC 31-9; IC 31-16; IC 31-25; IC 31-33.

Synopsis: Office of administrative law proceedings. Allows a petition for review of an agency administrative action to be filed by mail, personal service, or electronic mail. (Current law requires a petition for review to be filed by mail or personal service.) Provides that the filing of a document in an administrative proceeding is considered complete on the date of electronic submission if the document is sent by electronic mail. Allows the ultimate authority of an agency to request that the office of administrative law proceedings (office) review a motion to disqualify an administrative law judge. Allows the department of child services to request that the office conduct administrative proceedings on certain administrative actions related to child support and certain substantiated reports of child abuse or neglect. Requires the office to maintain confidentiality in administrative proceedings concerning actions by the department of child services.

Effective: July 1, 2021.

**Steuerwald, Borders, Jeter,
DeLaney**

January 4, 2021, read first time and referred to Committee on Judiciary.
January 14, 2021, reported — Do Pass.
January 28, 2021, read second time, amended, ordered engrossed.

HB 1060—LS 6426/DI 125



Reprinted
January 29, 2021

First Regular Session of the 122nd General Assembly (2021)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2020 Regular Session of the General Assembly.

HOUSE BILL No. 1060

A BILL FOR AN ACT to amend the Indiana Code concerning state offices and administration.

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

1 SECTION 1. IC 4-21.5-3-1, AS AMENDED BY P.L.152-2012,
2 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2021]: Sec. 1. (a) This section applies to:
4 (1) the giving of any notice;
5 (2) the service of any motion, ruling, order, or other filed item; or
6 (3) the filing of any document with the ultimate authority **or the**
7 **office of administrative law proceedings;**
8 in an administrative proceeding under this article.
9 (b) Except as provided in subsection (c) or as otherwise provided by
10 law, a person shall serve papers by:
11 (1) United States mail;
12 (2) personal service;
13 (3) electronic mail; or
14 (4) any other method approved by the Indiana Rules of Trial
15 Procedure.
16 (c) The following shall be served by United States mail or personal
17 service:

HB 1060—LS 6426/DI 125



- 1 (1) The initial notice of a determination under section 6 of this
 2 chapter.
- 3 ~~(2) A petition for review of an agency action under section 7 of~~
 4 ~~this chapter.~~
- 5 ~~(3) (2) A complaint under section 8 of this chapter.~~
- 6 (d) The agency shall keep a record of the time, date, and
 7 circumstances of the service under subsection (b) or (c).
- 8 (e) Service shall be made on a person or on the person's counsel or
 9 other authorized representative of record in the proceeding. Service on
 10 an artificial person or a person incompetent to receive service shall be
 11 made on a person allowed to receive service under the rules governing
 12 civil actions in the courts. If an ultimate authority consists of more than
 13 one (1) individual, service on that ultimate authority must be made on
 14 the chairperson or secretary of the ultimate authority. A document to
 15 be filed with that ultimate authority must be filed with the chairperson
 16 or secretary of the ultimate authority.
- 17 (f) If the current address of a person is not ascertainable, service
 18 shall be mailed to the last known address where the person resides or
 19 has a principal place of business. If the identity, address, or existence
 20 of a person is not ascertainable, or a law other than a rule allows,
 21 service shall be made by a single publication in a newspaper of general
 22 circulation in:
- 23 (1) the county in which the person resides, has a principal place
 24 of business, or has property that is the subject of the proceeding;
 25 or
- 26 (2) Marion County, if the place described in subdivision (1) is not
 27 ascertainable or the place described in subdivision (1) is outside
 28 Indiana and the person does not have a resident agent or other
 29 representative of record in Indiana.
- 30 (g) A notice given by publication must include a statement advising
 31 a person how the person may receive written notice of the proceedings.
- 32 (h) The filing of a document with an ultimate authority is
 33 **considered** complete on the earliest of the following dates that apply
 34 to the filing:
- 35 (1) The date on which the document is delivered to the ultimate
 36 authority **or the office of administrative law proceedings:**
- 37 (A) under subsection (b) or (c); and
 38 (B) in compliance with subsection (e).
- 39 (2) The date of the postmark on the envelope containing the
 40 document, if the document is mailed to the ultimate authority **or**
 41 **the office of administrative law proceedings** by United States
 42 mail.



1 (3) The date on which the document is deposited with a private
 2 carrier, as shown by a receipt issued by the carrier, if the
 3 document is sent to the ultimate authority **or the office of**
 4 **administrative law proceedings** by private carrier.

5 **(4) The date of the electronic submission containing the**
 6 **document, if the document is sent by electronic mail.**

7 SECTION 2. IC 4-21.5-3-9, AS AMENDED BY P.L.205-2019,
 8 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 9 JULY 1, 2021]: Sec. 9. (a) Except to the extent that a statute other than
 10 this article limits an agency's discretion to select an administrative law
 11 judge, the ultimate authority for an agency may:

12 (1) act as an administrative law judge;

13 (2) designate one (1) or more members of the ultimate authority
 14 (if the ultimate authority is a panel of individuals) to act as an
 15 administrative law judge; or

16 (3) before July 1, 2020, designate one (1) or more:

17 (A) attorneys licensed to practice law in Indiana; or

18 (B) persons who served as administrative law judges for a state
 19 agency before January 1, 2014;

20 to act as an administrative law judge. After June 30, 2020, the
 21 ultimate authority for an agency may request assignment of an
 22 administrative law judge by the office of administrative law
 23 proceedings.

24 A person designated under subdivision (3) is not required to be an
 25 employee of the agency. A designation under subdivision (2) or (3)
 26 may be made in advance of the commencement of any particular
 27 proceeding for a generally described class of proceedings or may be
 28 made for a particular proceeding. A general designation may provide
 29 procedures for the assignment of designated individuals to particular
 30 proceedings.

31 (b) An agency may not knowingly assign an individual to serve
 32 alone or with others as an administrative law judge who is subject to
 33 disqualification under this chapter.

34 (c) If the administrative law judge assigned to the proceeding
 35 believes that the judge's impartiality might reasonably be questioned,
 36 or believes that the judge's personal bias, prejudice, or knowledge of a
 37 disputed evidentiary fact might influence the decision, the
 38 administrative law judge shall:

39 (1) withdraw as the administrative law judge; or

40 (2) inform the parties of the potential basis for disqualification,
 41 place a brief statement of this basis on the record of the
 42 proceeding, and allow the parties an opportunity to petition for



1 disqualification under subsection (d).

2 (d) Any party to a proceeding may petition for the disqualification
3 of an administrative law judge upon discovering facts establishing
4 grounds for disqualification under this chapter. The administrative law
5 judge assigned to the proceeding shall determine whether to grant the
6 petition, stating facts and reasons for the determination.

7 (e) If the administrative law judge ruling on the disqualification
8 issue is not the ultimate authority for the agency, the party petitioning
9 for disqualification may petition the ultimate authority, **or, if the**
10 **administrative law judge is employed or contracted with the office**
11 **of administrative law proceedings, the director of the office of**
12 **administrative law proceedings**, in writing for review of the ruling
13 within ten (10) days after notice of the ruling is served. The ultimate
14 authority shall:

- 15 (1) conduct proceedings described by section 28 of this chapter;
16 **or**
17 **(2) request that the director of the office of administrative law**
18 **proceedings conduct proceedings described by section 28 of**
19 **this chapter;**

20 to review the petition and affirm, modify, or dissolve the ruling within
21 thirty (30) days after the petition is filed. A determination by the
22 ultimate authority **or the director of the office of administrative law**
23 **proceedings** under this subsection is a final order subject to judicial
24 review under IC 4-21.5-5.

25 (f) If a substitute is required for an administrative law judge who is
26 disqualified or becomes unavailable for any other reason, the substitute
27 must be appointed in accordance with subsection (a).

28 (g) Any action taken by a duly appointed substitute for a
29 disqualified or unavailable administrative law judge is as effective as
30 if taken by the latter.

31 (h) If there is a reasonable likelihood that the ultimate authority will
32 be called upon to:

- 33 (1) review; or
34 (2) issue a final order with respect to;

35 a matter pending before or adjudicated by an administrative law judge,
36 the provisions of section 11 of this chapter that apply to an
37 administrative law judge or to a person communicating with an
38 administrative law judge apply to a member of the ultimate authority
39 and to a person communicating with a member of the ultimate
40 authority.

41 SECTION 3. IC 4-21.5-3-28 IS AMENDED TO READ AS
42 FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 28. (a) This section



1 applies to proceedings under sections 29, 30, and 31 of this chapter.

2 (b) The ultimate authority or its designee shall conduct proceedings
3 to issue a final order. A designee may be selected in advance of the
4 commencement of any particular proceeding for a generally described
5 class of proceedings or may be selected for a particular proceeding. A
6 general designation may provide procedures for the assignment of
7 designated individuals to particular proceedings. **The ultimate
8 authority may designate the office of administrative law
9 proceedings to conduct the proceedings to issue a final order as
10 provided in IC 4-15-10.5-12.**

11 (c) Any individual serving alone or with others in a proceeding may
12 be disqualified for any of the reasons that an administrative law judge
13 may be disqualified. The procedures in section 9 of this chapter apply
14 to the disqualification and substitution of the individual.

15 (d) Motions and petitions submitted by a party to the ultimate
16 authority shall be served on each party to the proceeding and to any
17 person described by section 5(d) of this chapter.

18 (e) In the conduct of its proceedings, the ultimate authority or its
19 designee shall afford each party an opportunity to present briefs. The
20 ultimate authority or its designee may:

- 21 (1) afford each party an opportunity to present oral argument;
- 22 (2) have a transcript prepared, at the agency's expense, of any
23 portion of the record of a proceeding that the ultimate authority or
24 its designee considers necessary;
- 25 (3) exercise the powers of an administrative law judge to hear
26 additional evidence under sections 25 and 26 of this chapter; or
- 27 (4) allow nonparties to participate in a proceeding in accordance
28 with section 25 of this chapter.

29 Sections 15 and 16 of this chapter concerning representation and
30 interpreters apply to the proceedings of the ultimate authority or its
31 designee.

32 (f) Notices and orders of the ultimate authority or its designee shall
33 be served on all parties and all other persons who have requested notice
34 under section 5 of this chapter.

35 (g) The final order of the ultimate authority or its designee must:

- 36 (1) identify any differences between the final order and the
37 nonfinal order issued by the administrative law judge under
38 section 27 of this chapter;
- 39 (2) include findings of fact meeting the standards of section 27 of
40 this chapter or incorporate the findings of fact in the
41 administrative law judge's order by express reference to the order;
42 and



1 (3) briefly explain the available procedures and time limit for
 2 seeking administrative review of the final order by another agency
 3 under section 30 of this chapter (if any is available).

4 SECTION 4. IC 31-9-2-45.9 IS ADDED TO THE INDIANA CODE
 5 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 6 1, 2021]: **Sec. 45.9. "Final agency action" means, with respect to an
 7 administrative action taken by the department, the issuance of an
 8 order by the ultimate authority of the department that:**

9 (1) disposes of all issues for all parties to an administrative
 10 proceeding regarding the action after the parties to the
 11 administrative proceeding have exhausted all administrative
 12 remedies concerning the action; and

13 (2) is designated as a final order by the ultimate authority of
 14 the department.

15 SECTION 5. IC 31-9-2-86.5 IS ADDED TO THE INDIANA CODE
 16 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 17 1, 2021]: **Sec. 86.5. "Office of administrative law proceedings"
 18 means the office of administrative law proceedings established by
 19 IC 4-15-10.5-7.**

20 SECTION 6. IC 31-9-2-131.3 IS ADDED TO THE INDIANA
 21 CODE AS A NEW SECTION TO READ AS FOLLOWS
 22 [EFFECTIVE JULY 1, 2021]: **Sec. 131.3. "Ultimate authority of the
 23 department" refers to the director or the director's designee under
 24 IC 31-25-2-11.5.**

25 SECTION 7. IC 31-16-15-4.3, AS AMENDED BY P.L.123-2014,
 26 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 27 JULY 1, 2021]: **Sec. 4.3. (a) An obligor may contest a Title IV-D
 28 agency's determination to implement an income withholding order
 29 under section 2.5(a) or 2.5(b) of this chapter by making a written
 30 application to the Title IV-D agency not more than twenty (20) days
 31 after the date the notice is mailed to the obligor.**

32 (b) The only basis on which an obligor may contest the
 33 implementation of an income withholding order under section 2.5(a) or
 34 2.5(b) of this chapter is mistake of fact.

35 (c) A Title IV-D agency **or the office of administrative law
 36 proceedings** shall:

37 (1) not more than twenty-five (25) days after an obligor makes
 38 written application to contest an income withholding order under
 39 subsection (a), hold a hearing to review the Title IV-D agency's
 40 determination to implement the income withholding order; and

41 (2) make a determination on the implementation of the income
 42 withholding order at the hearing.



1 SECTION 8. IC 31-25-2-11.5 IS ADDED TO THE INDIANA
 2 CODE AS A NEW SECTION TO READ AS FOLLOWS
 3 [EFFECTIVE JULY 1, 2021]: **Sec. 11.5. (a) For purposes of an**
 4 **administrative proceeding regarding an action taken by the**
 5 **department, the director or the director's designee is the ultimate**
 6 **authority of the department.**

7 **(b) A designee of the director under subsection (a) must be:**

8 **(1) a deputy director of the department; or**

9 **(2) an individual who:**

10 **(A) is an attorney in good standing who is admitted to the**
 11 **practice of law in Indiana; and**

12 **(B) is an employee of the department, except as otherwise**
 13 **allowed under state and federal law.**

14 SECTION 9. IC 31-25-4-26, AS ADDED BY P.L.145-2006,
 15 SECTION 271, IS AMENDED TO READ AS FOLLOWS
 16 [EFFECTIVE JULY 1, 2021]: Sec. 26. (a) A recipient of the federal
 17 Temporary Assistance for Needy Families (TANF) program (45 CFR
 18 265) who is aggrieved by the action of the Title IV-D agency in paying
 19 or not paying money to the recipient out of the support money collected
 20 by the agency under an assignment to Indiana may appeal the action to
 21 the Title IV-D agency. The appeal may not be used to redetermine
 22 eligibility for assistance, but must be limited to the issue as to whether
 23 upon the records before the Title IV-D agency proper distribution was
 24 made out of the support money collected.

25 (b) If, as a result of the appeal, the Title IV-D agency **or the**
 26 **administrative law judge assigned by the office of administrative**
 27 **law proceedings** has reasonable cause to believe that the records in the
 28 agency's possession concerning the appellant are in error, the Title
 29 IV-D agency shall notify the agency supplying the records of possible
 30 errors and request corrective action.

31 (c) The appeal hearing must be held in accordance with the rules of
 32 the department **or the office of administrative law proceedings.**

33 SECTION 10. IC 31-25-4-33, AS AMENDED BY P.L.183-2017,
 34 SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 35 JULY 1, 2021]: Sec. 33. (a) An obligor may contest the Title IV-D
 36 agency's determination to issue an order under section 32 of this
 37 chapter by making a written application to the Title IV-D agency within
 38 twenty (20) days after the date the notice is mailed to the obligor.

39 (b) The only basis for contesting an order issued under this section
 40 is a mistake of fact.

41 (c) The Title IV-D agency **or the office of administrative law**
 42 **proceedings** shall hold a hearing, within twenty-five (25) days after



1 written application is made under subsection (a), to review its
 2 determination to issue an order under section 32 of this chapter. The
 3 Title IV-D agency **or the office of administrative law proceedings**
 4 shall make a determination in writing on the issuance of an order under
 5 section 32 of this chapter at the hearing.

6 (d) If the obligor requests a hearing but fails to appear or if the
 7 obligor appears and is found to be delinquent, the Title IV-D agency **or**
 8 **the office of administrative law proceedings** shall issue an order to
 9 the bureau of motor vehicles stating that the obligor is delinquent.

10 (e) An order issued under subsection (d) must require the following:

11 (1) If the obligor who is the subject of the order holds a driving
 12 license or permit on the date the order is issued, that the obligor's
 13 driving privileges be suspended under further order of the Title
 14 IV-D agency **or the office of administrative law proceedings**.

15 (2) If the obligor who is the subject of the order does not hold a
 16 driving license or permit on the date the order is issued, that the
 17 bureau of motor vehicles may not issue a driving license or permit
 18 to the obligor until the bureau of motor vehicles receives a further
 19 order from the Title IV-D agency **or the office of administrative**
 20 **law proceedings**.

21 SECTION 11. IC 31-33-18-2, AS AMENDED BY P.L.112-2020,
 22 SECTION 59, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 23 JULY 1, 2021]: Sec. 2. The reports and other material described in
 24 section 1(a) of this chapter and the unredacted reports and other
 25 material described in section 1(b) of this chapter shall be made
 26 available only to the following:

27 (1) Persons authorized by this article.

28 (2) A legally mandated public or private child protective agency
 29 investigating a report of child abuse or neglect or treating a child
 30 or family that is the subject of a report or record.

31 (3) Any of the following who are investigating a report of a child
 32 who may be a victim of child abuse or neglect:

33 (A) A police officer or other law enforcement agency.

34 (B) A prosecuting attorney.

35 (C) A coroner, in the case of the death of a child.

36 (4) A physician who has before the physician a child whom the
 37 physician reasonably suspects may be a victim of child abuse or
 38 neglect.

39 (5) An individual legally authorized to place a child in protective
 40 custody if:

41 (A) the individual has before the individual a child whom the
 42 individual reasonably suspects may be a victim of abuse or



- 1 neglect; and
 2 (B) the individual requires the information in the report or
 3 record to determine whether to place the child in protective
 4 custody.
 5 (6) An agency having the legal responsibility or authorization to
 6 care for, treat, or supervise a child who is the subject of a report
 7 or record or a parent, guardian, custodian, or other person who is
 8 responsible for the child's welfare.
 9 (7) An individual named in the report or record who is alleged to
 10 be abused or neglected or, if the individual named in the report is
 11 a child or is otherwise incompetent, the individual's guardian ad
 12 litem or the individual's court appointed special advocate, or both.
 13 (8) Each parent, guardian, custodian, or other person responsible
 14 for the welfare of a child named in a report or record and an
 15 attorney of the person described under this subdivision, with
 16 protection for the identity of reporters and other appropriate
 17 individuals.
 18 (9) A court, for redaction of the record in accordance with section
 19 1.5 of this chapter, or upon the court's finding that access to the
 20 records may be necessary for determination of an issue before the
 21 court. However, except for disclosure of a redacted record in
 22 accordance with section 1.5 of this chapter, access is limited to in
 23 camera inspection unless the court determines that public
 24 disclosure of the information contained in the records is necessary
 25 for the resolution of an issue then pending before the court.
 26 (10) A grand jury upon the grand jury's determination that access
 27 to the records is necessary in the conduct of the grand jury's
 28 official business.
 29 (11) An appropriate state or local official responsible for child
 30 protection services or legislation carrying out the official's official
 31 functions.
 32 (12) The community child protection team appointed under
 33 IC 31-33-3 (or IC 31-6-11-14 before its repeal), upon request, to
 34 enable the team to carry out the team's purpose under IC 31-33-3.
 35 (13) A person about whom a report has been made, with
 36 protection for the identity of:
 37 (A) any person reporting known or suspected child abuse or
 38 neglect; and
 39 (B) any other person if the person or agency making the
 40 information available finds that disclosure of the information
 41 would be likely to endanger the life or safety of the person.
 42 (14) An employee of the department, a caseworker, or a juvenile



- 1 probation officer conducting a criminal history check under
 2 IC 31-26-5, IC 31-34, or IC 31-37 to determine the
 3 appropriateness of an out-of-home placement for a:
- 4 (A) child at imminent risk of placement;
 - 5 (B) child in need of services; or
 - 6 (C) delinquent child.
- 7 The results of a criminal history check conducted under this
 8 subdivision must be disclosed to a court determining the
 9 placement of a child described in clauses (A) through (C).
- 10 (15) A local child fatality review team established under
 11 IC 16-49-2.
- 12 (16) The statewide child fatality review committee established by
 13 IC 16-49-4.
- 14 (17) The department.
- 15 (18) The division of family resources, if the investigation report:
- 16 (A) is classified as substantiated; and
 - 17 (B) concerns:
 - 18 (i) an applicant for a license to operate;
 - 19 (ii) a person licensed to operate;
 - 20 (iii) an employee of; or
 - 21 (iv) a volunteer providing services at;
- 22 a child care center licensed under IC 12-17.2-4 or a child care
 23 home licensed under IC 12-17.2-5.
- 24 (19) A citizen review panel established under IC 31-25-2-20.4.
- 25 (20) The department of child services ombudsman established by
 26 IC 4-13-19-3.
- 27 (21) The state superintendent of public instruction with protection
 28 for the identity of:
- 29 (A) any person reporting known or suspected child abuse or
 30 neglect; and
 - 31 (B) any other person if the person or agency making the
 32 information available finds that disclosure of the information
 33 would be likely to endanger the life or safety of the person.
- 34 (22) The state child fatality review coordinator employed by the
 35 state department of health under IC 16-49-5-1.
- 36 (23) A person who operates a child caring institution, group
 37 home, or secure private facility if all the following apply:
- 38 (A) The child caring institution, group home, or secure private
 39 facility is licensed under IC 31-27.
 - 40 (B) The report or other materials concern:
 - 41 (i) an employee of;
 - 42 (ii) a volunteer providing services at; or



- 1 (iii) a child placed at;
 2 the child caring institution, group home, or secure private
 3 facility.
 4 (C) The allegation in the report occurred at the child caring
 5 institution, group home, or secure private facility.
 6 (24) A person who operates a child placing agency if all the
 7 following apply:
 8 (A) The child placing agency is licensed under IC 31-27.
 9 (B) The report or other materials concern:
 10 (i) a child placed in a foster home licensed by the child
 11 placing agency;
 12 (ii) a person licensed by the child placing agency to operate
 13 a foster family home;
 14 (iii) an employee of the child placing agency or a foster
 15 family home licensed by the child placing agency; or
 16 (iv) a volunteer providing services at the child placing
 17 agency or a foster family home licensed by the child placing
 18 agency.
 19 (C) The allegations in the report occurred in the foster family
 20 home or in the course of employment or volunteering at the
 21 child placing agency or foster family home.
 22 (25) The National Center for Missing and Exploited Children.
 23 (26) A local domestic violence fatality review team established
 24 under IC 12-18-8, as determined by the department to be relevant
 25 to the death or near fatality that the local domestic violence
 26 fatality review team is reviewing.
 27 (27) The statewide domestic violence fatality review committee
 28 established under IC 12-18-9-3, as determined by the department
 29 to be relevant to the death or near fatality that the statewide
 30 domestic violence fatality review committee is reviewing.
 31 (28) The statewide maternal mortality review committee
 32 established under IC 16-50-1-3, as determined by the department
 33 to be relevant to the case of maternal morbidity or maternal
 34 mortality that the statewide maternal mortality review committee
 35 is reviewing.
 36 (29) A local fetal-infant mortality review team established under
 37 IC 16-49-6, as determined by the department to be relevant to the
 38 case of fetal or infant fatality that the local fetal-infant mortality
 39 review team is reviewing.
 40 (30) A suicide and overdose fatality review team established
 41 under IC 16-49.5-2, as determined by the department to be
 42 relevant to the case of a suicide or overdose fatality that the



1 suicide and overdose fatality review team is reviewing.

2 **(31) The office of administrative law proceedings for a matter**
 3 **that is the subject of an administrative proceeding before the**
 4 **office of administrative law proceedings.**

5 SECTION 12. IC 31-33-26-0.5 IS ADDED TO THE INDIANA
 6 CODE AS A NEW SECTION TO READ AS FOLLOWS
 7 [EFFECTIVE JULY 1, 2021]: **Sec. 0.5. As used in this chapter,**
 8 **"administrative hearing officer" refers to an individual who**
 9 **presides over an administrative hearing. The term includes an**
 10 **administrative law judge assigned by the office of administrative**
 11 **law proceedings established by IC 4-15-10.5-7.**

12 SECTION 13. IC 31-33-26-9, AS AMENDED BY P.L.48-2012,
 13 SECTION 53, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 14 JULY 1, 2021]: **Sec. 9. (a) Except as provided in sections 11 and 12 of**
 15 **this chapter, the department shall conduct, or request that the office**
 16 **of administrative law proceedings assign an administrative hearing**
 17 **officer to conduct, an administrative hearing upon a request made**
 18 **under section 8 of this chapter.**

19 (b) At the administrative hearing, the department must prove by a
 20 preponderance of credible evidence that the perpetrator is responsible
 21 for the child's abuse or neglect.

22 (c) During an administrative hearing under this section, the
 23 administrative hearing officer shall consider hearsay evidence to be
 24 competent evidence and may not exclude hearsay based on the
 25 technical rules of evidence. If not objected to, the hearsay evidence
 26 may form the basis for an order. However, if the evidence is properly
 27 objected to and does not fall within a recognized exception to the
 28 hearsay rule, the resulting order may not be based solely upon the
 29 hearsay evidence.

30 (d) If the department fails to carry the burden of proof under
 31 subsection (b), the department shall amend or expunge the report as
 32 ordered by the administrative hearing officer within the period
 33 provided under section 15 of this chapter.

34 (e) The department **and, if an administrative law judge has been**
 35 **assigned by the office of administrative law proceedings, the office**
 36 **of administrative law proceedings, shall maintain the confidentiality**
 37 **of an abuse or a neglect report during the administrative process.**

38 (f) The administrative hearing shall be closed.

39 (g) The administrative files shall be closed and not disclosed to the
 40 public.

41 (h) The department shall provide a copy of a decision **and the**
 42 **written final agency action** resulting from an administrative hearing



1 under this section to the department of education if:
 2 (1) the alleged perpetrator is licensed by the department of
 3 education; or
 4 (2) the incident happened on school property or at a school
 5 function.
 6 SECTION 14. IC 31-33-26-15, AS AMENDED BY P.L.48-2012,
 7 SECTION 55, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 8 JULY 1, 2021]: Sec. 15. (a) The department shall expunge a
 9 substantiated report contained within the index not later than ten (10)
 10 working days after any of the following occurs:
 11 (1) A court having jurisdiction over a child in need of services
 12 proceeding determines that child abuse or neglect has not
 13 occurred.
 14 (2) An administrative hearing officer under this chapter ~~finds that~~
 15 **the has issued a recommendation regarding a** child abuse or
 16 neglect report **and the ultimate authority of the department**
 17 **has issued a written final agency action determining that the**
 18 **report** is unsubstantiated.
 19 (3) A court having juvenile jurisdiction enters an order for
 20 expungement of the report under IC 31-33-27-5.
 21 (b) The department shall amend a substantiated report contained in
 22 the index by deleting the name of an alleged perpetrator if:
 23 (1) a court having jurisdiction over a child in need of services
 24 proceeding; or
 25 (2) **the ultimate authority of the department, after issuance of**
 26 **a recommendation by** an administrative hearing officer under
 27 this chapter;
 28 finds that the person was not a perpetrator of the child abuse or neglect
 29 that occurred.
 30 SECTION 15. IC 31-33-26-16, AS ADDED BY P.L.138-2007,
 31 SECTION 67, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 32 JULY 1, 2021]: Sec. 16. (a) A person or an organization may have
 33 access to information contained in the index as follows:
 34 (1) A law enforcement agency may have access to a substantiated
 35 report for purposes of investigating or criminally prosecuting a
 36 person identified as a perpetrator of child abuse or neglect.
 37 (2) A child care provider, upon submitting a written consent for
 38 release of information signed by an individual who:
 39 (A) is employed by or who has applied for employment with
 40 the child care provider;
 41 (B) has volunteered to provide services to the child care
 42 provider in a capacity that would place the individual in direct



- 1 contact, on a regular and continuous basis, with children who
 2 are or will be under the direct supervision of the child care
 3 provider; or
 4 (C) is at least eighteen (18) years of age and resides in the
 5 home of the child care provider;
 6 may have access to any information relating to a substantiated
 7 report of child abuse or neglect that names the employee,
 8 applicant, volunteer, or household resident as the perpetrator of
 9 child abuse or neglect.
- 10 (3) A person may have access to any information that is contained
 11 in the index pertaining to the person, with protection for the
 12 identity of:
- 13 (A) a person who reports the child abuse or neglect; and
 14 (B) any other appropriate person.
- 15 (4) A person or an agency to whom child abuse and neglect
 16 reports are available under IC 31-33-18 may have access to
 17 information contained in the index.
- 18 (5) Representatives of the division of family resources designated
 19 by the director of the division may have access to and use any
 20 information relating to a substantiated report of child abuse or
 21 neglect that would constitute a basis for denial or revocation of a
 22 license for a child care center under IC 12-17.2-4 or a child care
 23 home under IC 12-17.2-5.
- 24 (6) Representatives of the department designated by the director
 25 may have access to and use any information relating to a
 26 substantiated report of child abuse or neglect that would
 27 constitute a basis for denial or revocation of a license for a child
 28 caring institution, foster family home, group home, or child
 29 placing agency under IC 31-27.
- 30 (7) Any representative of the department, a court having juvenile
 31 jurisdiction, and any party in a case under IC 31-34 or IC 31-37
 32 may have access to and use any information relating to a
 33 substantiated report of child abuse or neglect in connection with
 34 a determination of an appropriate out of home placement for a
 35 child under any applicable provision of IC 31-34 or IC 31-37 that
 36 requires a criminal history check (as described in IC 31-9-2-22.5)
 37 concerning any person.
- 38 (8) The department shall provide any information contained in a
 39 substantiated report of child abuse or neglect that is included in
 40 the index to an authorized agency of another state that requests
 41 information concerning a prospective foster or adoptive parent, or
 42 any other adult living in the home of a prospective foster or



1 adoptive parent, in accordance with 42 U.S.C. 671(a)(20)(C).

2 (9) The department shall transmit or provide to a national index
3 of substantiated cases of child abuse or neglect established in
4 accordance with 42 U.S.C. 16990:

5 (A) a copy of any substantiated report and related information
6 entered into the index; and

7 (B) information concerning expungement or amendment of
8 any substantiated report as provided in section 14 or 15 of this
9 chapter.

10 (10) To determine the eligibility of a child care provider to
11 receive a voucher payment (as defined in IC 12-17.2-3.5-3), the
12 division of family resources may use information contained in the
13 index concerning whether a child has been found by a court to be
14 a child in need of services based on a report of child abuse or
15 neglect naming an individual described in IC 12-17.2-3.5-4.1(a)
16 as a perpetrator.

17 **(11) The office of administrative law proceedings may have**
18 **access to any information relating to a substantiated report of**
19 **child abuse or neglect that is the subject of an administrative**
20 **proceeding before the office of administrative law**
21 **proceedings.**

22 (b) Except as provided in this section or in rules adopted under
23 subsection (c), the department may not disclose information used in
24 connection with the department's activities under this section.

25 (c) The department shall adopt rules under IC 4-22-2 relating to the
26 procedure for disclosure of information described in this section.



COMMITTEE REPORT

Mr. Speaker: Your Committee on Judiciary, to which was referred House Bill 1060, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

(Reference is to HB 1060 as introduced.)

TORR

Committee Vote: Yeas 12, Nays 0

 HOUSE MOTION

Mr. Speaker: I move that House Bill 1060 be amended to read as follows:

Page 6, between lines 3 and 4, begin a new paragraph and insert:

"SECTION 4. IC 31-9-2-45.9 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: **Sec. 45.9. "Final agency action" means, with respect to an administrative action taken by the department, the issuance of an order by the ultimate authority of the department that:**

- (1) disposes of all issues for all parties to an administrative proceeding regarding the action after the parties to the administrative proceeding have exhausted all administrative remedies concerning the action; and**
- (2) is designated as a final order by the ultimate authority of the department."**

Page 6, between lines 8 and 9, begin a new paragraph and insert:

"SECTION 6. IC 31-9-2-131.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: **Sec. 131.3. "Ultimate authority of the department" refers to the director or the director's designee under IC 31-25-2-11.5."**

Page 6, between lines 26 and 27, begin a new paragraph and insert:

"SECTION 8. IC 31-25-2-11.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: **Sec. 11.5. (a) For purposes of an administrative proceeding regarding an action taken by the department, the director or the director's designee is the ultimate authority of the department.**

HB 1060—LS 6426/DI 125



- (b) A designee of the director under subsection (a) must be:**
- (1) a deputy director of the department; or**
 - (2) an individual who:**
 - (A) is an attorney in good standing who is admitted to the practice of law in Indiana; and**
 - (B) is an employee of the department, except as otherwise allowed under state and federal law."**

Page 6, line 34, delete "or to the office of administrative LAW" and insert ".".

Page 6, line 35, delete "proceedings."

Page 7, line 9, delete "or the".

Page 7, line 10, delete "office of administrative law proceedings".

Page 11, line 18, delete "review".

Page 12, line 15, delete "(as defined by IC 4-21.5-1-6)".

Page 12, delete lines 22 through 42, begin a new paragraph and insert:

"SECTION 14. IC 31-33-26-15, AS AMENDED BY P.L.48-2012, SECTION 55, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 15. (a) The department shall expunge a substantiated report contained within the index not later than ten (10) working days after any of the following occurs:

(1) A court having jurisdiction over a child in need of services proceeding determines that child abuse or neglect has not occurred.

(2) An administrative hearing officer under this chapter ~~finds that the~~ **has issued a recommendation regarding a child abuse or neglect report and the ultimate authority of the department has issued a written final agency action determining that the report** is unsubstantiated.

(3) A court having juvenile jurisdiction enters an order for expungement of the report under IC 31-33-27-5.

(b) The department shall amend a substantiated report contained in the index by deleting the name of an alleged perpetrator if:

(1) a court having jurisdiction over a child in need of services proceeding; or

(2) **the ultimate authority of the department, after issuance of a recommendation by an administrative hearing officer under this chapter;**

finds that the person was not a perpetrator of the child abuse or neglect that occurred."

Page 13, delete lines 1 through 2.

Page 14, line 35, delete "review".



Renumber all SECTIONS consecutively.

(Reference is to HB 1060 as printed January 14, 2021.)

STEUERWALD

