

Second Regular Session of the 123rd General Assembly (2024)

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 2023 Regular Session of the General Assembly.

HOUSE ENROLLED ACT No. 1102

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 12-7-2-28.6, AS AMENDED BY P.L.124-2007, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]: Sec. 28.6. (a) **Except as provided in subsection (c)**, "child care home", for purposes of IC 12-17.2, means a residential structure in which at least ~~six (6)~~ **eight (8)** children, **or at least four (4) children under twelve (12) months of age**, (not including the children for whom the provider is a parent, stepparent, guardian, custodian, or other relative) ~~or any child who is at least fourteen (14) years of age and does not require child care~~) at any time receive child care from a provider:

- (1) while unattended by a parent, legal guardian, or custodian;
 - (2) for regular compensation; and
 - (3) for more than ~~four (4)~~ **six (6)** hours **per day** but less than twenty-four (24) hours ~~in each of~~ **per day** for ten (10) consecutive days, ~~per year, excluding intervening~~ **not including** Saturdays, Sundays, and holidays.
- (b) The term includes:
- (1) a class I child care home; and
 - (2) a class II child care home.
- (c) **A child who is:**
- (1) **a relative of a provider;**
 - (2) **under the custody or guardianship of a provider; or**

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**(3) at least fourteen (14) years of age and does not require child care;
is not a child described under subsection (a).**

SECTION 2. IC 12-7-2-171.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]: **Sec. 171.5. "School property", for purposes of IC 12-17.2, means a building owned or leased by a:**

- (1) school corporation;**
- (2) public school; or**
- (3) private school;**

within the school district in which the school is located.

SECTION 3. IC 12-17.2-1-1, AS AMENDED BY P.L.56-2023, SECTION 116, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]: **Sec. 1. Except as provided in IC 12-17.2-3.5, this article does not apply to the following:**

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

- (A) Programs for children in grades kindergarten through 12 that are operated under the authority of the department of education or that are operated with the assistance of the department of education.**
- (B) The division of mental health and addiction.**
- (C) The Indiana department of health.**
- (D) The department of correction.**

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

- (A) does not receive regular compensation for child care;**
- (B) cares only for children who are related to the provider;**
- (C) cares for less than eight (8) children, not including a child who is:
 - (i) a relative of a provider;**
 - (ii) under the custody or guardianship of a provider; or**
 - (iii) at least fourteen (14) years of age and does not require child care; or****

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

(2) (3) A county jail or detention center.

SECTION 4. IC 12-17.2-2-8, AS AMENDED BY P.L.81-2022, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]: **Sec. 8. The division shall exempt from licensure the following programs:**

(1) A program for children enrolled in grades kindergarten



through 12 that is operated by the department of education or a public or private school.

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

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

(4) A recreation program for children that operates for not more than ninety (90) days in a calendar year.

(5) A program whose primary purpose is to provide social, recreational, or religious activities for school age children, such as scouting, boys club, girls club, sports, or the arts.

(6) A program operated to serve migrant children that:

(A) provides services for children from migrant worker families; and

(B) is operated during a single period of less than one hundred twenty (120) consecutive days during a calendar year.

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

(8) A child care home if the provider

~~(A) does not receive regular compensation;~~

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

~~(C) cares for less than six (6) children; not including children for whom the provider is a parent, stepparent, guardian, custodian, or other relative; or~~

~~(D) operates to serve migrant children.~~

(9) A child care program operated by a public or private school that **does the following:**

(A) Provides day care on ~~the school premises~~ **school property** for children of students or employees of schools in the school corporation in which the public or private school is located.

(B) Complies with health, safety, and sanitation standards as determined by the division under section 4 of this chapter for child care centers or in accordance with a variance or waiver of a rule governing child care centers approved by the division under section 10 of this chapter. ~~and~~

(C) Substantially complies with the fire and life safety rules as determined by the state fire marshal under rules adopted by the division under section 4 of this chapter for child care centers or in accordance with a variance or waiver of a rule governing child care centers approved by the division under section 10 of this chapter.



- (10) A school age child care program (commonly referred to as a latch key program) established under IC 20-26-5-2 that is operated by:
- (A) the department of education;
 - (B) a public or private school; or
 - (C) a public or private organization under a written contract with:
 - (i) the department of education; or
 - (ii) a public or private school.
- (11) A child care program that:
- (A) is operated by a public or private organization under a contract with a public or private school;
 - (B) serves children who are enrolled in the public or private school in:
 - (i) grades kindergarten through 12; or
 - (ii) a preschool program offered by a public or private school as described in this subdivision; and
 - (C) serves children who are:
 - (i) attending school through remote or e-learning due to a disaster emergency declared under IC 10-14-3-12 or IC 10-14-3-29; or
 - (ii) participating in a learning recovery program that administers an assessment to measure student learning loss and provides Indiana academic standards aligned instruction.
- (12) An educational program:
- (A) consisting of a group of not more than ten (10) students who attend the educational program in lieu of attending prekindergarten or kindergarten through grade 12 at a public or private school;
 - (B) whose students meet in a single classroom in person or outside a classroom and which may include mixed age level groupings; and
 - (C) that is under the supervision of a teacher or tutor.
- (13) If located in the same public or private school building:
- (A) a preschool program that is operated by the public or private school; and
 - (B) either or both of the following:
 - (i) A child care program described in subdivision (9).
 - (ii) A school age child care program described in subdivision (10).
- (14) A child care program operated by a public or private**



school that does the following:

(A) Provides day care on school property for children of employees of a business or organization with which the school has entered into a contract to provide services. If the school property is owned by the school, the school property must have been both:

- (i) owned by the school; and**
- (ii) used for child care;**

on or before January 1, 2024.

(B) Complies with health, safety, and sanitation standards as determined by the division under section 4 of this chapter for child care centers or in accordance with a variance or waiver of a rule governing child care centers approved by the division under section 10 of this chapter.

(C) Substantially complies with the fire and life safety rules as determined by the state fire marshal under rules adopted by the division under section 4 of this chapter for child care centers or in accordance with a variance or waiver of a rule governing child care centers approved by the division under section 10 of this chapter.

SECTION 5. IC 12-17.2-3.5-3.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]: **Sec. 3.5. A child care provider is eligible to receive a voucher payment if the provider complies with this chapter and:**

- (1) does not receive regular compensation;**
- (2) cares only for children who are related to the provider;**
- (3) cares for less than eight (8) children, not including children for whom the provider is a parent, stepparent, guardian, custodian, or other relative; or**
- (4) operates to serve migrant children.**

SECTION 6. IC 12-17.2-4-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]: **Sec. 12. (a) A license for a child care center expires ~~two (2)~~ three (3) years after the date of issuance, unless revoked, modified to a probationary or suspended status, or voluntarily returned.**

(b) A license issued under this chapter:

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

(c) A current license shall be publicly displayed.



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

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

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

SECTION 7. IC 12-17.2-5-3.7, AS ADDED BY P.L.53-2018, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]: Sec. 3.7. (a) A licensee that cares for children who are less than twelve (12) months of age shall:

- (1) complete the training course provided or approved by the division under IC 12-17.2-2-1(10) concerning safe sleeping practices as required by section 6.3(a)(3) or ~~6.5(a)(9)~~ **6.5(9)** of this chapter, whichever is applicable; and
- (2) ensure that all caregivers of children who are less than twelve (12) months of age follow safe sleeping practices.

(b) If a licensee violates subsection (a), the division may do the following with respect to each violation determined during an inspection of the child care home:

- (1) On the first inspection during which a violation is determined during a licensure period, issue a formal warning letter stating the division's intent to take administrative action and impose a civil penalty for any future violation.
- (2) On the second inspection during which a violation is determined during a licensure period, impose a civil penalty of fifty dollars (\$50) for each violation determined during the inspection.
- (3) On the third inspection during which a violation is determined during a licensure period, impose a civil penalty of seventy-five dollars (\$75) for each violation determined during the inspection.
- (4) On the fourth inspection during which a violation is determined during a licensure period:
 - (A) place the child care home's license on probation for not



more than six (6) months; and

(B) impose a civil penalty of one hundred dollars (\$100) for each violation determined during the inspection.

(5) On the fifth inspection during which a violation is determined during a licensure period:

(A) suspend or revoke the child care home's license for one (1) year; and

(B) impose a civil penalty of two hundred fifty dollars (\$250) for each violation determined during the inspection.

(c) The division shall send to the licensee written notice:

(1) of an action taken under subsection (b), specifying the reason for the action and amount of any monetary civil penalty; and

(2) that failure to pay any monetary civil penalty may result in revocation of the child care home's license for not more than two

(2) years.

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

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

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

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

(2) Provide a smoke detection system that is:

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

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

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

(4) Meet:

(A) the exit requirements for an E-3 building occupancy classification under the Indiana building code adopted by the fire prevention and building safety commission, except for any illumination requirements, in effect at the time the class II



child care home provider initially applies for licensure; and
 (B) the illumination requirements established in section 6.3(b)(3) of this chapter.

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

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

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

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

(9) Complete the training course taught or approved by the division concerning safe sleeping practices for a child within the person's care as described in IC 12-17.2-2-1(10).

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

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

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

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

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

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

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

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

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

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

(1) zoning requirements;



- (2) developmental standards; and
- (3) building codes;

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

(c) A zoning ordinance:

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

(2) that:

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

(B) imposes limits on the number of children that may be served by a child care home at any one (1) time that vary from the limits set forth in IC 12-7-2-33.7 and IC 12-7-2-33.8; or

(C) imposes requirements or restrictions upon child care homes that vary from the requirements and restrictions imposed upon child care homes by rules adopted by the division of family resources or the fire prevention and building safety commission;

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



Speaker of the House of Representatives

President of the Senate

President Pro Tempore

Governor of the State of Indiana

Date: _____ Time: _____

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