

Second Regular Session of the 122nd General Assembly (2022)

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 2021 Regular Session of the General Assembly.

SENATE ENROLLED ACT No. 266

AN ACT to amend the Indiana Code concerning family law and juvenile law.

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

SECTION 1. IC 31-27-3-3, AS AMENDED BY P.L.243-2019, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) An applicant must apply for a child caring institution license on forms provided by the department.

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

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

(1) Whether the applicant has been convicted of:

(A) a felony; or

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

(2) Whether the applicant has been charged with:

(A) a felony; or

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

during the pendency of the application.

(d) The department, on behalf of an applicant, or, at the discretion of the department, an applicant, shall conduct a criminal history check of the following:

(1) Each individual who is an applicant.

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



placed.

(3) Each employee, volunteer, or contractor of the applicant.

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

- (1) maintain records of the information it receives concerning each individual who is the subject of a criminal history check; and
- (2) submit to the department a copy of the information it receives concerning each person described in subsection (d)(1) through (d)(3).

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

- (1) determine whether the subject of a national fingerprint based criminal history check has a record of:
 - (A) a conviction for a felony;
 - (B) a conviction for a misdemeanor relating to the health and safety of a child; or
 - (C) a juvenile adjudication for a nonwaivable offense, as defined in IC 31-9-2-84.8 that, if committed by an adult, would be a felony;
- (2) notify the applicant of the determination under subdivision (1) without identifying a specific offense or other identifying information concerning a conviction or juvenile adjudication contained in the national criminal history record information;
- (3) submit to the applicant a copy of any state limited criminal history report that the department receives on behalf of any person described in subsection (d); and
- (4) maintain a record of every report and all information the department receives concerning a person described in subsection (d).

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

(h) **Except as provided in subsection (i)**, a criminal history check of each person described in subsection (d)(2) or (d)(3) must be completed on or before the date the person:

- (1) is employed;
- (2) is assigned as a volunteer; or
- (3) enters into, or the person's employing entity enters into, a contract with the applicant.

(i) An individual may be employed by a child caring institution as an employee, volunteer, or contractor before a criminal history check of the individual is completed as required under subsection



- (h) if all of the following conditions are satisfied:**
- (1) The following checks have been completed regarding the individual:**
 - (A) A fingerprint based check of national crime information data bases under IC 31-9-2-22.5(1).**
 - (B) A national sex offender registry check under IC 31-9-2-22.5(3).**
 - (C) An in-state local criminal records check under IC 31-9-2-22.5(4).**
 - (D) An in-state child protection index check under IC 31-33-26.**
 - (2) If the individual has resided outside Indiana at any time during the five (5) years preceding the individual's date of hiring by the child caring institution, the following checks have been requested regarding the individual:**
 - (A) An out-of-state child abuse registry check under IC 31-9-2-22.5(2).**
 - (B) An out-of-state local criminal records check under IC 31-9-2-22.5(4).**
 - (3) The individual's employment before the completion of the criminal history check required under subsection (h) is limited to training during which the individual:**
 - (A) does not have contact with children who are under the care and control of the child caring institution; and**
 - (B) does not have access to records containing information regarding children who are under the care and control of the child caring institution.**
 - (4) The individual completes an attestation, under penalty of perjury, disclosing:**
 - (A) any abuse or neglect complaints made against the individual with the child welfare agency of a state other than Indiana in which the individual resided within the five (5) years preceding the date of the attestation; and**
 - (B) any contact the individual had with a law enforcement agency in connection with the individual's suspected or alleged commission of a crime in a state other than Indiana in which the individual resided within the five (5) years preceding the date of the attestation.**
- (j)** The applicant or facility is responsible for any fees associated with a criminal history check.
- (k)** The department shall, at the applicant's request, inform the applicant whether the department has or does not have a record of the



person who is the subject of a criminal history check and if the department has identified the person as an alleged perpetrator of abuse or neglect. The department may not provide to the applicant any details or personally identifying information contained in any child protective services investigation report.

~~(k)~~ **(l)** A person who is the subject of a criminal history check conducted in accordance with this section may request the state police department to provide the person with a copy of any state or national criminal history report concerning the person.

SECTION 2. IC 31-27-5-4, AS AMENDED BY P.L.243-2019, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) An applicant must apply for a group home license on forms provided by the department.

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

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

- (1) Whether the applicant has been convicted of:
 - (A) a felony; or
 - (B) a misdemeanor relating to the health and safety of children.
- (2) Whether the applicant has been charged with:
 - (A) a felony; or
 - (B) a misdemeanor relating to the health and safety of children;

during the pendency of the application.

(d) The department on behalf of an applicant, or, at the discretion of the department, an applicant, shall conduct a criminal history check of the following:

- (1) Each individual who is an applicant.
- (2) The director or manager of a facility where children will be placed.
- (3) Each employee, volunteer, or contractor of the applicant.

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

- (1) maintain records of the information it receives concerning each individual who is the subject of a criminal history check; and
- (2) submit to the department a copy of the information the applicant receives concerning each person described in subsection (d)(1) through (d)(3).

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



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

- (A) conviction for a felony;
- (B) conviction for a misdemeanor relating to the health and safety of a child; or
- (C) juvenile adjudication for a nonwaivable offense, as defined in IC 31-9-2-84.8 that, if committed by an adult, would be a felony;

(2) notify the applicant of the determination under subdivision (1) without identifying a specific offense or other identifying information concerning a conviction or juvenile adjudication contained in the national criminal history record information;

(3) submit to the applicant a copy of any state limited criminal history report that the department receives on behalf of any person described in subsection (d); and

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

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

(h) **Except as provided in subsection (i)**, a criminal history check of each person described in subsection (d)(2) or (d)(3) must be completed on or before the date the person:

- (1) is employed;
- (2) is assigned as a volunteer; or
- (3) enters into, or the person's employing entity enters into, a contract with the applicant.

(i) An individual may be employed by a group home as an employee, volunteer, or contractor before a criminal history check of the individual is completed as required under subsection (h) if all of the following conditions are satisfied:

(1) The following checks have been completed regarding the individual:

- (A) A fingerprint based check of national crime information data bases under IC 31-9-2-22.5(1).**
- (B) A national sex offender registry check under IC 31-9-2-22.5(3).**
- (C) An in-state local criminal records check under IC 31-9-2-22.5(4).**
- (D) An in-state child protection index check under IC 31-33-26.**

(2) If the individual has resided outside Indiana at any time



during the five (5) years preceding the individual's date of hiring by the group home, the following checks have been requested regarding the individual:

(A) An out-of-state child abuse registry check under IC 31-9-2-22.5(2).

(B) An out-of-state local criminal records check under IC 31-9-2-22.5(4).

(3) The individual's employment before the completion of the criminal history check required under subsection (h) is limited to training during which the individual:

(A) does not have contact with children who are under the care and control of the group home; and

(B) does not have access to records containing information regarding children who are under the care and control of the group home.

(4) The individual completes an attestation, under penalty of perjury, disclosing:

(A) any abuse or neglect complaints made against the individual with the child welfare agency of a state other than Indiana in which the individual resided within the five (5) years preceding the date of the attestation; and

(B) any contact the individual had with a law enforcement agency in connection with the individual's suspected or alleged commission of a crime in a state other than Indiana in which the individual resided within the five (5) years preceding the date of the attestation.

(j) The applicant is responsible for any fees associated with a criminal history check.

(k) The department shall, at the applicant's request, inform the applicant as to whether the department has or does not have a record of the person who is the subject of a criminal history check and whether the department has identified the person as an alleged perpetrator of abuse or neglect. The department may not provide to the applicant any details or personally identifying information contained in any child protective services investigation report.

(l) A person who is the subject of a criminal history check conducted in accordance with this section may request the state police department to provide the person with a copy of any state or national criminal history report concerning the person.

SECTION 3. IC 31-27-6-2, AS AMENDED BY P.L.243-2019, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) An applicant must apply for a child



placing agency license on forms provided by the department.

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

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

(1) Whether the applicant has been convicted of:

(A) a felony; or

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

(2) Whether the applicant has been charged with:

(A) a felony; or

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

during the pendency of the application.

(d) The department on behalf of an applicant, or, at the discretion of the department, an applicant, shall conduct a criminal history check of the following:

(1) Each individual who is an applicant.

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

(3) Each employee, volunteer, or contractor of the applicant.

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

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

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

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

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

(A) conviction for a felony;

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

(C) juvenile adjudication for a nonwaivable offense, as defined in IC 31-9-2-84.8 that, if committed by an adult, would be a felony;

(2) notify the applicant of the determination under subdivision (1) without identifying a specific offense or other identifying information concerning a conviction or juvenile adjudication contained in the national criminal history record information;



(3) submit to the applicant a copy of any state limited criminal history report that the department receives on behalf of any person described in subsection (d); and

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

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

(h) **Except as provided in subsection (i)**, a criminal history check of each person described in subsection (d)(2) or (d)(3) must be completed on or before the date the person:

(1) is employed;

(2) is assigned as a volunteer; or

(3) enters into, or the person's employing entity enters into, a contract with the applicant.

(i) An individual may be employed by a child placing agency as an employee, volunteer, or contractor before a criminal history check of the individual is completed as required under subsection (h) if all of the following conditions are satisfied:

(1) The following checks have been completed regarding the individual:

(A) A fingerprint based check of national crime information data bases under IC 31-9-2-22.5(1).

(B) A national sex offender registry check under IC 31-9-2-22.5(3).

(C) An in-state local criminal records check under IC 31-9-2-22.5(4).

(D) An in-state child protection index check under IC 31-33-26.

(2) If the individual has resided outside Indiana at any time during the five (5) years preceding the individual's date of hiring by the child placing agency, the following checks have been requested regarding the individual:

(A) An out-of-state child abuse registry check under IC 31-9-2-22.5(2).

(B) An out-of-state local criminal records check under IC 31-9-2-22.5(4).

(3) The individual's employment before the completion of the criminal history check required under subsection (h) is limited to training during which the individual:

(A) does not have contact with children who are under the



care and control of the child placing agency; and
(B) does not have access to records containing information regarding children who are under the care and control of the child placing agency.

(4) The individual completes an attestation, under penalty of perjury, disclosing:

(A) any abuse or neglect complaints made against the individual with the child welfare agency of a state other than Indiana in which the individual resided within the five (5) years preceding the date of the attestation; and
(B) any contact the individual had with a law enforcement agency in connection with the individual's suspected or alleged commission of a crime in a state other than Indiana in which the individual resided within the five (5) years preceding the date of the attestation.

~~(j)~~ **(j)** The applicant or facility is responsible for any fees associated with a criminal history check.

~~(k)~~ **(k)** The department shall, at the applicant's request, inform the applicant whether the department has or does not have a record of the person who is the subject of a criminal history check and if the department has identified the person as an alleged perpetrator of abuse or neglect. The department may not provide to the applicant any details or personally identifying information contained in any child protective investigation report.

~~(l)~~ **(l)** A person who is the subject of a criminal history check conducted in accordance with this section may request the state police department to provide the person with a copy of any state or national criminal history report concerning the person.

SECTION 4. IC 31-27-7 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]:

Chapter 7. Department Base Rates Review

Sec. 1. As used in this chapter, "base rate" has the same meaning as set forth in 465 IAC 2-16-4 (as in effect on December 31, 2021).

Sec. 2. As used in this chapter, "child services provider" means the following:

- (1) A child caring institution, as defined in IC 31-9-2-16.7.**
- (2) A group home, as defined in IC 31-9-2-48.5.**
- (3) A licensed child placing agency, as defined in IC 31-9-2-17.5.**
- (4) A secure private facility, as defined in IC 31-9-2-115.**



Sec. 3. As used in this chapter, "cost report" has the meaning set forth in 465 IAC 2-16-5 (as in effect on December 31, 2021).

Sec. 4. For purposes of this chapter, the department shall determine whether a cost is reasonable based on what a reasonable person would pay in the same or similar circumstances for the same or similar item or service.

Sec. 5. (a) A child services provider may request a review of the base rates approved by the department if the child services provider believes that an error or omission was made in the:

- (1) cost report that the child services provider submitted to the department;
- (2) department's calculation of the base rate; or
- (3) department's determination of the reasonableness of a cost.

(b) A request for review under subsection (a) must be:

- (1) submitted in writing to the department; and
- (2) received by the department not more than thirty (30) days after the date on which the department mailed a rate letter to the child services provider.

Compliance with subdivision (2) is determined in the same manner by which compliance with the requirements for actions related to administrative proceedings is determined under IC 4-21.5-3-1 and IC 4-21.5-3-2.

(c) A child services provider making a request for review under subsection (a) shall submit the request for review in the form and manner specified by the department, including:

- (1) identification of the current base rate and approved new base rate, as applicable to a specific program or service offered by the child services provider;
- (2) an itemized statement of administrative and indirect costs that the child services provider considers allowable under this chapter;
- (3) a clear, concise statement of the reasons for the requested change; and
- (4) a detailed statement supporting the requested change.

The department shall not accept or process an incomplete request for review.

(d) If a child services provider that submits a request for review under this chapter has a current license that is subject to current revocation proceedings, the department shall not act upon the request for review.

(e) Not more than thirty (30) days after the date on which the



department receives a request for review submitted under this chapter, the department shall conduct a review and:

- (1) provide written notice and an explanation of the department's decision to the child services provider; and
- (2) publish the notice and explanation of the department's decision on the department's Internet web site.

(f) The department shall provide to the commission on improving the status of children the same notice and explanation of the department's decision provided to the child services provider under subsection (e), and the commission shall publish the notice on the commission's Internet web site.

(g) The explanation of the department's decision under subsection (e) must include a detailed explanation of the following:

- (1) The specific portion of the disputed cost that is being approved or denied for reimbursement.
- (2) Why the disputed cost being denied is unreasonable.
- (3) The information the department used to make its determination.

Sec. 6. If the child services provider proves that a cost was previously covered for any provider, or is associated with:

- (1) accreditation;
- (2) staff safety;
- (3) child safety; or
- (4) a department requirement;

the department may give special consideration to approval of the cost.

SECTION 5. An emergency is declared for this act.



President of the Senate

President Pro Tempore

Speaker of the House of Representatives

Governor of the State of Indiana

Date: _____ Time: _____

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