



January 29, 2020

SENATE BILL No. 289

DIGEST OF SB 289 (Updated January 28, 2020 8:35 am - DI 136)

Citations Affected: IC 31-27.

Synopsis: Criminal history check of child service providers. Provides that an in-state child abuse and neglect registry check and fingerprint based check of national crime information databases must be completed for an individual that applies for employment with a child caring institution, group home, or child placing agency. An individual may be employed by a child caring institution, group home, or child placing agency before an in-state child abuse and neglect registry check and fingerprint based check of national crime information databases of the individual is completed if: (1) the in-state child abuse and neglect registry check and fingerprint based check of national crime information databases have been initiated; and (2) the individual's employment before the completion of the in-state child abuse and neglect registry check and fingerprint based check of national crime information databases is limited to employment training during which the individual is never alone with a child.

Effective: July 1, 2020.

Grooms

January 9, 2020, read first time and referred to Committee on Family and Children Services.
January 28, 2020, amended, reported favorably — Do Pass.

SB 289—LS 7004/DI 119



January 29, 2020

Second Regular Session of the 121st General Assembly (2020)

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 2019 Regular Session of the General Assembly.

SENATE BILL No. 289

A BILL FOR 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:

- 1 SECTION 1. IC 31-27-3-3, AS AMENDED BY P.L.243-2019,
2 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2020]: Sec. 3. (a) An applicant must apply for a child caring
4 institution license on forms provided by the department.
5 (b) An applicant must submit the required information as part of the
6 application.
7 (c) The applicant must submit with the application a statement
8 attesting the following:
9 (1) Whether the applicant has been convicted of:
10 (A) a felony; or
11 (B) a misdemeanor relating to the health and safety of
12 children.
13 (2) Whether the applicant has been charged with:
14 (A) a felony; or
15 (B) a misdemeanor relating to the health and safety of
16 children;
17 during the pendency of the application.

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

4 (1) Each individual who is an applicant.

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

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

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

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

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

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

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

19 (A) a conviction for a felony;

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

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

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

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

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

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

38 (h) **Except as provided in subsection (i), a criminal history check**
 39 **an in-state child abuse and neglect registry check (under 34 U.S.C.**
 40 **20990) and a fingerprint based check of national crime information**
 41 **data bases** of each person described in subsection (d)(2) or (d)(3) must
 42 be completed **and a child abuse and neglect registry check (under**



1 **34 U.S.C. 20990) from a state in which each person described in**
 2 **subsection (d)(2) or (d)(3) has resided in the preceding five (5)**
 3 **years must be requested** on or before the date the person:

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

8 **(i) An individual may be employed as a person described in**
 9 **subsection (d)(2) or (d)(3) before an in-state child abuse and**
 10 **neglect registry check (under 34 U.S.C. 20990) and a fingerprint**
 11 **based check of national crime information data bases of the**
 12 **individual are completed as required under subsection (h)(1) if:**

- 13 **(1) the in-state child abuse and neglect registry check (under**
 14 **34 U.S.C. 20990) and fingerprint based check of national**
 15 **crime information data bases have been initiated; and**
 16 **(2) the individual's employment before the completion of the**
 17 **in-state child abuse and neglect registry check (under 34**
 18 **U.S.C. 20990) and fingerprint based check of national crime**
 19 **information data bases is limited to employment training**
 20 **during which the individual is never alone with a child.**

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

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

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

34 SECTION 2. IC 31-27-5-4, AS AMENDED BY P.L.243-2019,
 35 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 36 JULY 1, 2020]: Sec. 4. (a) An applicant must apply for a group home
 37 license on forms provided by the department.

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

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

- 42 (1) Whether the applicant has been convicted of:



- 1 (A) a felony; or
 2 (B) a misdemeanor relating to the health and safety of
 3 children.
 4 (2) Whether the applicant has been charged with:
 5 (A) a felony; or
 6 (B) a misdemeanor relating to the health and safety of
 7 children;
 8 during the pendency of the application.
 9 (d) The department on behalf of an applicant, or, at the discretion of
 10 the department, an applicant, shall conduct a criminal history check of
 11 the following:
 12 (1) Each individual who is an applicant.
 13 (2) The director or manager of a facility where children will be
 14 placed.
 15 (3) Each employee, volunteer, or contractor of the applicant.
 16 (e) If the applicant conducts a criminal history check under
 17 subsection (d), the applicant shall:
 18 (1) maintain records of the information it receives concerning
 19 each individual who is the subject of a criminal history check; and
 20 (2) submit to the department a copy of the information the
 21 applicant receives concerning each person described in subsection
 22 (d)(1) through (d)(3).
 23 (f) If the department conducts a criminal history check on behalf of
 24 an applicant under subsection (d), the department shall:
 25 (1) determine whether the subject of a national fingerprint based
 26 criminal history check has a record of a:
 27 (A) conviction for a felony;
 28 (B) conviction for a misdemeanor relating to the health and
 29 safety of a child; or
 30 (C) juvenile adjudication for a nonwaivable offense, as defined
 31 in IC 31-9-2-84.8 that, if committed by an adult, would be a
 32 felony;
 33 (2) notify the applicant of the determination under subdivision (1)
 34 without identifying a specific offense or other identifying
 35 information concerning a conviction or juvenile adjudication
 36 contained in the national criminal history record information;
 37 (3) submit to the applicant a copy of any state limited criminal
 38 history report that the department receives on behalf of any person
 39 described in subsection (d); and
 40 (4) maintain a record of every report and all information it
 41 receives concerning a person described in subsection (d).
 42 (g) Except as provided in subsection (h), a criminal history check



1 described in subsection (d) is required only at the time an application
2 for a new license or the renewal of an existing license is submitted.

3 **(h) Except as provided in subsection (i), a criminal history check**
4 **an in-state child abuse and neglect registry check (under 34 U.S.C.**
5 **20990) and a fingerprint based check of national crime information**
6 **data bases of each person described in subsection (d)(2) or (d)(3) must**
7 **be completed and a child and neglect registry check (under 34**
8 **U.S.C. 20990) from a state in which each person described in**
9 **subsection (d)(2) or (d)(3) has resided in the preceding five (5)**
10 **years must be requested on or before the date the person:**

11 (1) is employed;

12 (2) is assigned as a volunteer; or

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

15 **(i) An individual may be employed as a person described in**
16 **subsection (d)(2) or (d)(3) before an in-state child abuse and**
17 **neglect registry check (under 34 U.S.C. 20990) and a fingerprint**
18 **based check of national crime information data bases of the**
19 **individual are completed as required under subsection (h)(1) if:**

20 (1) the in-state child abuse and neglect registry check (under
21 34 U.S.C. 20990) and fingerprint based check of national
22 crime information data bases have been initiated; and

23 (2) the individual's employment before the completion of the
24 in-state child abuse and neglect registry check (under 34
25 U.S.C. 20990) and fingerprint based check of national crime
26 information data bases is limited to employment training
27 during which the individual is never alone with a child.

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

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

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

41 SECTION 3, IC 31-27-6-2, AS AMENDED BY P.L.243-2019,
42 SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE



- 1 JULY 1, 2020]; Sec. 2. (a) An applicant must apply for a child placing
 2 agency license on forms provided by the department.
- 3 (b) An applicant must submit the required information as part of the
 4 application.
- 5 (c) The applicant must submit with the application a statement
 6 attesting the following:
- 7 (1) Whether the applicant has been convicted of:
 8 (A) a felony; or
 9 (B) a misdemeanor relating to the health and safety of
 10 children.
- 11 (2) Whether the applicant has been charged with:
 12 (A) a felony; or
 13 (B) a misdemeanor relating to the health and safety of
 14 children;
 15 during the pendency of the application.
- 16 (d) The department on behalf of an applicant, or, at the discretion of
 17 the department, an applicant, shall conduct a criminal history check of
 18 the following:
- 19 (1) Each individual who is an applicant.
 20 (2) The director or manager of a facility where children will be
 21 placed.
 22 (3) Each employee, volunteer, or contractor of the applicant.
- 23 (e) If the applicant conducts a criminal history check under
 24 subsection (d), the applicant shall:
- 25 (1) maintain records of the information it receives concerning
 26 each individual who is the subject of a criminal history check; and
 27 (2) submit to the department a copy of the information it receives
 28 concerning each person described in subsection (d)(1) through
 29 (d)(3).
- 30 (f) If the department conducts a criminal history check on behalf of
 31 an applicant under subsection (d), the department shall:
- 32 (1) determine whether the subject of a national fingerprint based
 33 criminal history check has a record of a:
 34 (A) conviction for a felony;
 35 (B) conviction for a misdemeanor relating to the health and
 36 safety of a child; or
 37 (C) juvenile adjudication for a nonwaivable offense, as defined
 38 in IC 31-9-2-84.8 that, if committed by an adult, would be a
 39 felony;
 40 (2) notify the applicant of the determination under subdivision (1)
 41 without identifying a specific offense or other identifying
 42 information concerning a conviction or juvenile adjudication



1 contained in the national criminal history record information;
 2 (3) submit to the applicant a copy of any state limited criminal
 3 history report that the department receives on behalf of any person
 4 described in subsection (d); and
 5 (4) maintain a record of every report and all information the
 6 department receives concerning a person described in subsection
 7 (d).

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

11 (h) **Except as provided in subsection (i), a criminal history check**
 12 **an in-state child abuse and neglect registry check (under 34 U.S.C.**
 13 **20990) and a fingerprint based check of national crime information**
 14 **data bases of each person described in subsection (d)(2) or (d)(3) must**
 15 **be completed and a child and neglect registry check (under 34**
 16 **U.S.C. 20990) from a state in which each person described in**
 17 **subsection (d)(2) or (d)(3) has resided in the preceding five (5)**
 18 **years must be requested on or before the date the person:**

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

23 (i) **An individual may be employed as a person described in**
 24 **subsection (d)(2) or (d)(3) before an in-state child abuse and**
 25 **neglect registry check (under 34 U.S.C. 20990) and a fingerprint**
 26 **based check of national crime information data bases of the**
 27 **individual are completed as required under subsection (h)(1) if:**

- 28 (1) **the in-state child abuse and neglect registry check (under**
 29 **34 U.S.C. 20990) and fingerprint based check of national**
 30 **crime information data bases have been initiated; and**
 31 (2) **the individual's employment before the completion of the**
 32 **in-state child abuse and neglect registry check (under 34**
 33 **U.S.C. 20990) and fingerprint based check of national crime**
 34 **information data bases is limited to employment training**
 35 **during which the individual is never alone with a child.**

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

38 (k) The department shall, at the applicant's request, inform the
 39 applicant whether the department has or does not have a record of the
 40 person who is the subject of a criminal history check and if the
 41 department has identified the person as an alleged perpetrator of abuse
 42 or neglect. The department may not provide to the applicant any details



1 or personally identifying information contained in any child protective
2 investigation report.

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



COMMITTEE REPORT

Madam President: The Senate Committee on Family and Children Services, to which was referred Senate Bill No. 289, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 2, line 38, strike "a criminal history check" and insert "**an in-state child abuse and neglect registry check (under 34 U.S.C. 20990) and a fingerprint based check of national crime information data bases**".

Page 2, line 40, after "completed" insert "**and a child abuse and neglect registry check (under 34 U.S.C. 20990) from a state in which each person described in subsection (d)(2) or (d)(3) has resided in the preceding five (5) years must be requested**".

Page 3, delete lines 3 through 9, begin a new paragraph and insert:

"(i) An individual may be employed as a person described in subsection (d)(2) or (d)(3) before an in-state child abuse and neglect registry check (under 34 U.S.C. 20990) and a fingerprint based check of national crime information data bases of the individual are completed as required under subsection (h)(1) if:

- (1) the in-state child abuse and neglect registry check (under 34 U.S.C. 20990) and fingerprint based check of national crime information data bases have been initiated; and**
- (2) the individual's employment before the completion of the in-state child abuse and neglect registry check (under 34 U.S.C. 20990) and fingerprint based check of national crime information data bases is limited to employment training during which the individual is never alone with a child."**

Page 4, line 34, strike "a criminal history check" and insert "**an in-state child abuse and neglect registry check (under 34 U.S.C. 20990) and a fingerprint based check of national crime information data bases**".

Page 4, line 36, after "completed" insert "**and a child and neglect registry check (under 34 U.S.C. 20990) from a state in which each person described in subsection (d)(2) or (d)(3) has resided in the preceding five (5) years must be requested**".

Page 4, delete lines 41 through 42, begin a new paragraph and insert:

"(i) An individual may be employed as a person described in subsection (d)(2) or (d)(3) before an in-state child abuse and neglect registry check (under 34 U.S.C. 20990) and a fingerprint based check of national crime information data bases of the



individual are completed as required under subsection (h)(1) if:

- (1) the in-state child abuse and neglect registry check (under 34 U.S.C. 20990) and fingerprint based check of national crime information data bases have been initiated; and**
- (2) the individual's employment before the completion of the in-state child abuse and neglect registry check (under 34 U.S.C. 20990) and fingerprint based check of national crime information data bases is limited to employment training during which the individual is never alone with a child."**

Page 5, delete lines 1 through 5.

Page 6, line 31, strike "criminal history check" and insert "**an in-state child abuse and neglect registry check (under 34 U.S.C. 20990) and a fingerprint based check of national crime information data bases**".

Page 6, line 33, after "completed" insert "**and a child and neglect registry check (under 34 U.S.C. 20990) from a state in which each person described in subsection (d)(2) or (d)(3) has resided in the preceding five (5) years must be requested**".

Page 6, delete lines 38 through 42, begin a new paragraph and insert:

"(i) An individual may be employed as a person described in subsection (d)(2) or (d)(3) before an in-state child abuse and neglect registry check (under 34 U.S.C. 20990) and a fingerprint based check of national crime information data bases of the individual are completed as required under subsection (h)(1) if:

- (1) the in-state child abuse and neglect registry check (under 34 U.S.C. 20990) and fingerprint based check of national crime information data bases have been initiated; and**
- (2) the individual's employment before the completion of the in-state child abuse and neglect registry check (under 34 U.S.C. 20990) and fingerprint based check of national crime information data bases is limited to employment training during which the individual is never alone with a child."**

Page 7, delete lines 1 through 2.

and when so amended that said bill do pass.

(Reference is to SB 289 as introduced.)

GROOMS, Chairperson

Committee Vote: Yeas 9, Nays 0.

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