

SENATE MOTION

MADAM PRESIDENT:

I move that Engrossed House Bill 1136 be amended to read as follows:

- 1 Page 1, between the enacting clause and line 1, begin a new
2 paragraph and insert:
3 "SECTION 1. IC 4-21.5-2-6, AS AMENDED BY P.L.219-2007,
4 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
5 JULY 1, 2012]: Sec. 6. This article does not apply to the formulation,
6 issuance, or administrative review (but does apply to the judicial
7 review and civil enforcement) of any of the following:
8 (1) Except as provided in **IC 12-17.2-3.5-17**, IC 12-17.2-4-18.7,
9 and IC 12-17.2-5-18.7, determinations by the division of family
10 resources and the department of child services.
11 (2) Determinations by the alcohol and tobacco commission.
12 (3) Determinations by the office of Medicaid policy and planning
13 concerning recipients and applicants of Medicaid. However, this
14 article does apply to determinations by the office of Medicaid
15 policy and planning concerning providers.
16 SECTION 2. IC 12-7-2-149.1, AS AMENDED BY P.L.143-2011,
17 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
18 JULY 1, 2012]: Sec. 149.1. "Provider" means the following:
19 (1) For purposes of IC 12-10-7, the meaning set forth in
20 IC 12-10-7-3.
21 (2) For purposes of the following statutes, an individual, a
22 partnership, a corporation, or a governmental entity that is
23 enrolled in the Medicaid program under rules adopted under
24 IC 4-22-2 by the office of Medicaid policy and planning:
25 (A) IC 12-14-1 through IC 12-14-9.5.
26 (B) IC 12-15, except IC 12-15-32, IC 12-15-33, and
27 IC 12-15-34.
28 (C) IC 12-17.6.
29 (3) Except as provided in ~~subdivision~~ **subdivisions (4) and (6)**,
30 for purposes of IC 12-17.2, a person who operates a child care

1 center or child care home under IC 12-17.2.

2 (4) For purposes of IC 12-17.2-3.5, a person that:

3 (A) provides child care; and

4 (B) is directly paid for the provision of the child care under the
5 federal Child Care and Development Fund voucher program
6 administered under 45 CFR 98 and 45 CFR 99.

7 The term does not include an individual who provides services to
8 a person described in clauses (A) and (B), regardless of whether
9 the individual receives compensation.

10 (5) For purposes of IC 12-21-1 through IC 12-29-2, an
11 organization:

12 (A) that:

13 (i) provides mental health services, as defined under 42
14 U.S.C. 300x-2(c);

15 (ii) provides addiction services; or

16 (iii) provides children's mental health services;

17 (B) that has entered into a provider agreement with the
18 division of mental health and addiction under IC 12-21-2-7 to
19 provide services in the least restrictive, most appropriate
20 setting; and

21 (C) that is operated by one (1) of the following:

22 (i) A city, town, county, or other political subdivision of the
23 state.

24 (ii) An agency of the state or of the United States.

25 (iii) A political subdivision of another state.

26 (iv) A hospital owned or operated by a unit of government
27 or a building authority that is organized for the purpose of
28 constructing facilities to be leased to units of government.

29 (v) A corporation incorporated under IC 23-7-1.1 (before its
30 repeal August 1, 1991) or IC 23-17.

31 (vi) An organization that is exempt from federal income
32 taxation under Section 501(c)(3) of the Internal Revenue
33 Code.

34 (vii) A university or college.

35 **(6) For purposes of IC 12-17.2-2-10, the following:**

36 **(A) A person described in subdivision (4).**

37 **(B) A child care center licensed under IC 12-17.2-4.**

38 **(C) A child care home licensed under IC 12-17.2-5."**

39 Page 1, after line 7, begin a new paragraph and insert:

40 "SECTION 4. IC 12-17.2-2-1, AS AMENDED BY P.L.1-2009,
41 SECTION 105, IS AMENDED TO READ AS FOLLOWS
42 [EFFECTIVE JULY 1, 2012]: Sec. 1. The division shall perform the
43 following duties:

44 (1) Administer the licensing and monitoring of child care centers
45 or child care homes in accordance with this article.

46 (2) Ensure that a national criminal history background check of

- 1 the applicant is completed through the state police department
 2 under IC 10-13-3-39 before issuing a license.
- 3 (3) Ensure that a criminal history background check of a child
 4 care ministry applicant for registration is completed before
 5 registering the child care ministry.
- 6 (4) Provide for the issuance, denial, suspension, and revocation of
 7 licenses.
- 8 (5) Cooperate with governing bodies of child care centers and
 9 child care homes and their staffs to improve standards of child
 10 care.
- 11 (6) Prepare at least biannually a directory of licensees with a
 12 description of the program capacity and type of children served
 13 that will be distributed to the legislature, licensees, and other
 14 interested parties as a public document.
- 15 (7) Deposit all license application fees collected under section 2
 16 of this chapter in the division of family resources child care fund
 17 established by IC 12-17.2-2-3.
- 18 (8) Require each child care center or child care home to record
 19 proof of a child's date of birth before accepting the child. A child's
 20 date of birth may be proven by the child's original birth certificate
 21 or other reliable proof of the child's date of birth, including a duly
 22 attested transcript of a birth certificate.
- 23 (9) Provide an Internet site through which members of the public
 24 may obtain the following information:
- 25 (A) Information concerning violations of this article by a
 26 licensed child care provider, including:
- 27 (i) the identity of the child care provider;
- 28 (ii) the date of the violation; and
- 29 (iii) action taken by the division in response to the violation.
- 30 (B) Current status of a child care provider's license.
- 31 (C) Other relevant information.
- 32 The Internet site may not contain the address of a child care home
 33 or information identifying an individual child. However, the site
 34 may include the county and ZIP code in which a child care home
 35 is located.
- 36 (10) Provide or approve training concerning safe sleeping
 37 practices for children to:
- 38 (A) a provider who operates a child care program ~~in the~~
 39 ~~provider's home~~ as described in ~~IC 12-17.2-3.5-5.5(b);~~
 40 **IC 12-17.2-3.5-5.5;** and
- 41 (B) a child care home licensed under IC 12-17.2-5;
 42 including practices to reduce the risk of sudden infant death
 43 syndrome.
- 44 SECTION 5. IC 12-17.2-2-10, AS AMENDED BY P.L.145-2006,
 45 SECTION 94, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 46 JULY 1, 2012]: Sec. 10. (a) The division may grant a variance or

1 waiver of a rule governing ~~child care centers, or child care homes:~~ **a**
 2 **provider.** A variance or waiver granted under this section must
 3 promote statewide practices and must protect the rights of persons
 4 affected by this article.

5 (b) The division may grant a variance to a rule if ~~an applicant for a~~
 6 ~~license or a licensee under this chapter~~ **provider** does the following:

7 (1) Submits to the division a written request for the variance in
 8 the form and manner specified by the division.

9 (2) Documents that compliance with an alternative method of
 10 compliance approved by the division will not be adverse to the
 11 health, safety, or welfare of a child receiving services from the
 12 applicant for the variance, as determined by the division.

13 (c) A variance granted under subsection (b) must be conditioned
 14 upon compliance with the alternative method approved by the division.
 15 Noncompliance constitutes the violation of a rule of the division and
 16 may be the basis for revoking the variance.

17 (d) The division may grant a waiver of a rule if ~~an applicant for a~~
 18 ~~license or a licensee under this chapter~~ **provider** does the following:

19 (1) Submits to the division a written request for the waiver in the
 20 form and manner specified by the division.

21 (2) Documents that compliance with the rule specified in the
 22 application for the waiver will create an undue hardship on the
 23 applicant for the waiver, as determined by the division.

24 (3) Documents that the applicant for the waiver will be in
 25 substantial compliance with the rules adopted by the division after
 26 the waiver is granted, as determined by the division.

27 (4) Documents that noncompliance with the rule specified in the
 28 application for a waiver will not be adverse to the health, safety,
 29 or welfare of a child receiving services from the applicant for the
 30 waiver, as determined by the division.

31 (e) Except for a variance or waiver of a rule governing child care
 32 homes, a variance or waiver of a rule under this section that conflicts
 33 with a building rule or fire safety rule adopted by the fire prevention
 34 and building safety commission is not effective until the variance or
 35 waiver is approved by the fire prevention and building safety
 36 commission.

37 SECTION 6. IC 12-17.2-3.5-1, AS AMENDED BY P.L.124-2007,
 38 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 39 JULY 1, 2012]: Sec. 1. (a) This chapter applies to all child care
 40 providers regardless of whether a provider is required to be licensed or
 41 registered under this article. However, **except as provided in section**
 42 **4(b) of this chapter,** a child care provider that is licensed under
 43 IC 12-17.2-4 or IC 12-17.2-5 is considered to be in compliance with
 44 this chapter. ~~unless the child care provider is found to be in violation~~
 45 ~~of this chapter.~~

46 (b) If a school age child care program that is:

1 (1) described in IC 12-17.2-2-8(10); and
 2 (2) located in a school building;
 3 is determined to be in compliance with a requirement of this chapter by
 4 another state regulatory authority, the school age child care program is
 5 considered to be in compliance with the requirement under this
 6 chapter.

7 SECTION 7. IC 12-17.2-3.5-4 IS AMENDED TO READ AS
 8 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 4. (a) A provider who:

- 9 (1) has been convicted of a:
 10 (A) felony;
 11 (B) misdemeanor related to:
 12 (i) the health or safety of a child; or
 13 (ii) **welfare fraud**;
 14 (C) misdemeanor for operating a child care center without a
 15 license under IC 12-17.2-4-35; or
 16 (D) misdemeanor for operating a child care home without a
 17 license under IC 12-17.2-5-35;
 18 (2) ~~employs or otherwise~~ allows an individual who has been
 19 convicted of a crime specified under subdivision (1) to:
 20 (A) serve as a ~~caregiver to a child in an employee or~~
 21 **volunteer in the facility where the provider's care; provider**
 22 **operates a child care program; or**
 23 (B) reside with the provider, if the provider operates a child
 24 care program in the provider's home; ~~or~~
 25 **(3) has had a revocation of eligibility under this chapter**
 26 **during the immediately preceding two (2) years; or**
 27 ~~(3) (4) fails to meet the requirements set forth in sections 5~~
 28 ~~through 12.1~~ of this chapter;
 29 is ineligible to receive a voucher payment.

30 (b) A provider whose:
 31 (1) license under IC 12-17.2-4 or IC 12-17.2-5; or
 32 (2) compliance with this chapter;
 33 **is subject to an enforcement action is ineligible to receive a voucher**
 34 **payment, regardless of whether the provider meets the**
 35 **requirements of this chapter, until the outcome of any**
 36 **administrative appeal under IC 4-21.5-5 reflects a final**
 37 **determination that the provider's license or eligibility is in good**
 38 **standing.**

39 SECTION 8. IC 12-17.2-3.5-4.1 IS AMENDED TO READ AS
 40 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 4.1. (a) This section
 41 applies to the following:

- 42 (1) A provider, if the provider is an individual.
 43 (2) If a provider operates a child care program in the provider's
 44 home, an individual who resides with the provider and who is at
 45 least eighteen (18) years of age.
 46 (3) An individual who:

1 (A) is employed; or
 2 (B) volunteers;
 3 as a caregiver at the facility where a provider operates a child care
 4 program.

5 (b) If information used by the division under ~~IC 31-33-17-6(7)~~
 6 **IC 31-33-26-16(a)(10) or obtained by the division under section 27**
 7 **of this chapter** indicates that an individual described in subsection (a)
 8 has been named as ~~an alleged~~ a perpetrator, the following are ineligible
 9 to receive a voucher payment:

- 10 (1) The individual.
 11 (2) A provider in whose home the individual resides if the
 12 provider operates a child care program in the provider's home.
 13 (3) A provider that:
 14 (A) employs the individual; or
 15 (B) allows the individual to volunteer;
 16 as a caregiver at the facility where the provider operates a child
 17 care program.

18 SECTION 9. IC 12-17.2-3.5-5 IS AMENDED TO READ AS
 19 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 5. (a) A provider shall
 20 have

- 21 ~~(1) working smoke detectors that meet the standards adopted by~~
 22 ~~rule for smoke detectors in licensed child care homes; and~~
 23 ~~(2) hot and cold running water~~
 24 in the area of the facility where the provider operates a child care
 25 program.

26 (b) **A provider shall maintain compliance with food, health,**
 27 **safety, and sanitation standards as determined by the division**
 28 **under rules adopted by the division under section 15 of this chapter**
 29 **or in accordance with a variance or waiver approved by the**
 30 **division under IC 12-17.2-2-10.**

31 (c) **The food, health, safety, and sanitation standards adopted**
 32 **under subsection (b) must include all of the following**
 33 **requirements:**

- 34 (1) **Bathroom and handwashing.**
 35 (2) **Safe conditions in and on the grounds.**
 36 (3) **Maximum capacity limits for the number of children**
 37 **receiving care.**
 38 (4) **Nutrition.**
 39 (5) **Daily activities.**
 40 (6) **Safety of motor vehicles used to transport children.**

41 SECTION 10. IC 12-17.2-3.5-5.5, AS AMENDED BY
 42 P.L.162-2005, SECTION 2, IS AMENDED TO READ AS FOLLOWS
 43 [EFFECTIVE JULY 1, 2012]: Sec. 5.5. (a) A provider shall ensure that
 44 a child in the provider's care is continually supervised by a caregiver.

45 (b) A provider who operates a child care program in the provider's
 46 home (including a child care home licensed under IC 12-17.2-5) and

1 who receives a voucher payment under this chapter that cares for
2 children who are less than twelve (12) months of age shall:

3 (1) complete the training course provided or approved by the
4 division under IC 12-17.2-2-1(10) concerning safe sleeping
5 practices; and

6 (2) ensure that all caregivers of children who are less than
7 twelve (12) months of age follow safe sleeping practices.

8 (c) A provider that cares for:

9 (1) sixteen (16) or fewer children at a facility where the
10 provider operates a child care program shall maintain a ratio
11 of children to caregivers in the same proportions as the child
12 to staff ratios that are required for a child care home under
13 IC 12-17.2-5; and

14 (2) more than sixteen (16) children at a facility where the
15 provider operates a child care program shall maintain a ratio
16 of children to caregivers in the same proportions as the child
17 to staff ratios that are required for a child care center under
18 IC 12-17.2-4.

19 SECTION 11. IC 12-17.2-3.5-7 IS AMENDED TO READ AS
20 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 7. (a) A provider shall
21 have written plans for notifying parents regarding the following:

22 (1) Illness, serious injury, or death of the provider.

23 (2) Care in an emergency.

24 (3) Emergency evacuation.

25 The plan required under subdivision (3) must be posted in a
26 conspicuous location in the facility where the provider operates a child
27 care program.

28 (b) A provider shall:

29 (1) maintain a written child discipline policy;

30 (2) ensure that all employees and volunteers follow the child
31 discipline policy;

32 (3) provide the parent or legal guardian of each child cared
33 for by the provider a written copy of the child discipline
34 policy; and

35 (4) maintain in each child's file a copy of the child discipline
36 policy that has been signed by the parent or legal guardian
37 described in subdivision (3).

38 (c) A provider shall allow unscheduled visits by a parent or legal
39 guardian to a facility where the provider operates a child care
40 program during the hours the child care program is in operation.

41 SECTION 12. IC 12-17.2-3.5-8 IS AMENDED TO READ AS
42 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 8. (a) At least one (1)
43 adult individual who maintains annual certification in a course of
44 cardiopulmonary resuscitation applicable to all age groups of children
45 cared for by a provider shall be present at all times when a child is in
46 the care of the provider.

- 1 (b) **The following apply to an individual who**
 2 (+) is employed or
 3 (±) volunteers
 4 as a caregiver at a facility where a provider operates a child care
 5 program:
- 6 (1) **The individual shall maintain current certification in first aid**
 7 applicable to all age groups of children cared for by the provider.
 8 (2) **If the individual is:**
 9 (A) **at least eighteen (18) years of age, the individual may**
 10 **act as a caregiver without supervision of another**
 11 **caregiver; or**
 12 (B) **less than eighteen (18) years of age, the individual may**
 13 **act as a caregiver only if:**
 14 (i) **the individual is at least fourteen (14) years of age;**
 15 **and**
 16 (ii) **is, at all times when child care is provided, directly**
 17 **supervised by a caregiver who is at least eighteen (18)**
 18 **years of age.**
- 19 (3) **Unless the provider is related to all children in the care of**
 20 **the provider, the individual shall annually receive at least**
 21 **twelve (12) hours of continuing education approved by the**
 22 **division and related to the development and care of children**
 23 **of the same age as the age of children who receive care at the**
 24 **facility.**
- 25 (4) **Before beginning employment or volunteer duties, the**
 26 **individual must receive a formal orientation to the facility and**
 27 **the child care program.**
- 28 (5) **Not more than three (3) months after the individual begins**
 29 **employment or volunteer duties, the individual must receive**
 30 **training approved by the division concerning child abuse**
 31 **detection and prevention.**
- 32 (6) **Not more than three (3) months after beginning**
 33 **employment or volunteer duties caring for children who do**
 34 **not yet attend first grade, the individual must receive training**
 35 **approved by the division concerning the department of**
 36 **education's early learning guidelines.**
- 37 (c) **A provider shall:**
 38 (1) **maintain at the facility where the provider operates a child**
 39 **care program documentation of all training required by this**
 40 **section; and**
 41 (2) **make the documentation available to the division upon**
 42 **request.**
- 43 SECTION 13. IC 12-17.2-3.5-9 IS AMENDED TO READ AS
 44 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 9. (a) A provider shall
 45 have at least one (1) working telephone in each facility where the
 46 provider operates a child care program.

1 **(b) The telephone required by subsection (a) must be compatible**
 2 **with an automated time and attendance tracking system approved**
 3 **by the division.**

4 SECTION 14. IC 12-17.2-3.5-10 IS AMENDED TO READ AS
 5 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 10. (a) A facility where
 6 a provider operates a child care program must have two (2) exits that:

7 (1) do not require passage through a:

8 (A) garage; or

9 (B) storage area;

10 where hazardous materials are stored;

11 (2) are not windows;

12 (3) are on different sides of the facility;

13 (4) are not blocked; and

14 (5) are operable from the inside without the use of a key or any
 15 special knowledge.

16 **(b) In addition to the requirements specified in subsection (a),**
 17 **a room that is:**

18 **(1) where children who are not more than twenty-four (24)**
 19 **months of age receive care; and**

20 **(2) located in a facility where a provider operates a child care**
 21 **program;**

22 **must have at least one (1) exit that does not require the use of**
 23 **stairs.**

24 ~~(b)~~ (c) A provider shall:

25 (1) conduct monthly documented fire drills:

26 (A) in accordance with the rules of the fire prevention and
 27 building safety commission; and

28 (B) that include complete evacuation of all:

29 (i) children; and

30 (ii) adults who provide child care;

31 in the facility;

32 (2) maintain documentation of all fire drills conducted during the
 33 immediately preceding twelve (12) month period, including:

34 (A) the date and time of the fire drill;

35 (B) the name of the individual who conducted the fire drill;

36 (C) the weather conditions at the time of the fire drill; and

37 (D) the amount of time required to fully evacuate the facility;

38 and

39 (3) maintain a two and one-half (2 1/2) pound or greater ABC
 40 multiple purpose fire extinguisher:

41 (A) on each floor of the facility; and

42 (B) in the kitchen area of the facility;

43 in each facility where the provider operates a child care program.

44 **(d) A facility where a provider operates a child care program**
 45 **must meet the following requirements:**

46 **(1) If sixteen (16) or fewer children are cared for at the**

1 facility, have working smoke detectors and means of egress
2 that meet the requirements that apply to child care homes
3 under IC 12-17.2-5.

4 (2) If more than sixteen (16) children are cared for at the
5 facility, meet the requirements specified in the building rules
6 and fire safety rules adopted by the fire prevention and
7 building safety commission.

8 (3) If more than one (1) facility where a provider operates a
9 child care program is located in a single structure, each
10 facility must:

11 (A) be separated from each other facility by walls and
12 doors with a two (2) hour fire resistance rating; and

13 (B) individually meet all requirements of this section.

14 SECTION 15. IC 12-17.2-3.5-11 IS AMENDED TO READ AS
15 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 11. (a) A provider shall
16 provide for a safe environment by ensuring that the following items are
17 placed in areas that are inaccessible to the children in the provider's
18 care:

19 (1) Firearms and ammunition.

20 (2) Poisons, chemicals, bleach, and cleaning materials.

21 (3) Medications.

22 (4) Other items determined by the division in rules adopted
23 under section 15 of this chapter to pose a danger to children.

24 (b) A provider shall do the following with respect to
25 transporting children away from the facility where the provider
26 operates a child care program:

27 (1) Obtain written permission from the child's parent to
28 transport the child.

29 (2) Ensure that the child is transported only by an employee
30 or a volunteer who:

31 (A) is at least eighteen (18) years of age;

32 (B) holds a valid driver's license; and

33 (C) transports the child in a properly licensed and insured
34 motor vehicle.

35 SECTION 16. IC 12-17.2-3.5-12, AS AMENDED BY
36 P.L.142-2006, SECTION 2, IS AMENDED TO READ AS FOLLOWS
37 [EFFECTIVE JULY 1, 2012]: Sec. 12. (a) Except as provided in
38 subsection (f), a provider shall, at no expense to the state, maintain and
39 make available to the division upon request a copy of a limited criminal
40 history for:

41 (1) the provider, if the provider is an individual;

42 (2) if the provider operates a child care program in the provider's
43 home, any individual who resides with the provider and who is:

44 (A) at least eighteen (18) years of age; or

45 (B) less than eighteen (18) years of age but has previously
46 been waived from juvenile court to adult court; and

1 (3) any individual who:
2 (A) is employed; or
3 (B) volunteers;
4 as a caregiver at the facility where the provider operates a child
5 care program.
6 A provider shall apply for a limited criminal history for an individual
7 described in subdivision (3) before the individual is employed or
8 allowed to volunteer. ~~as a caregiver.~~
9 (b) In addition to the requirement under subsection (a), a provider
10 shall report to the division any:
11 (1) police investigations;
12 (2) arrests; and
13 (3) criminal convictions;
14 not listed on a limited criminal history obtained under subsection (a)
15 regarding any of the persons listed in subsection (a).
16 (c) A provider that meets the other eligibility requirements of this
17 chapter is temporarily eligible to receive voucher payments until the
18 provider receives the limited criminal history required under subsection
19 (a) from the state police department if:
20 (1) the provider:
21 (A) has applied for the limited criminal history required under
22 subsection (a); and
23 (B) obtains a local criminal history for the individuals
24 described in subsection (a) from each individual's local law
25 enforcement agency before the individual is employed or
26 allowed to volunteer; ~~as a caregiver;~~ and
27 (2) the local criminal history does not reveal that an individual
28 has been convicted of a:
29 (A) felony;
30 (B) misdemeanor related to the health or safety of a child;
31 (C) misdemeanor for operating a child care center without a
32 license under IC 12-17.2-4-35; or
33 (D) misdemeanor for operating a child care home without a
34 license under IC 12-17.2-5-35.
35 (d) A provider is ineligible to receive a voucher payment if an
36 individual for whom a limited criminal history is required under this
37 section has been convicted of a:
38 (1) felony;
39 (2) misdemeanor related to the health or safety of a child;
40 (3) misdemeanor for operating a child care center without a
41 license under IC 12-17.2-4-35; or
42 (4) misdemeanor for operating a child care home without a
43 license under IC 12-17.2-5-35;
44 until the individual is dismissed from employment or volunteer service
45 at the facility where the provider operates a child care program or no
46 longer resides with the provider.

1 (e) A provider shall maintain a written policy requiring an
 2 individual for whom a limited criminal history is required under this
 3 section to report any criminal convictions of the individual to the
 4 provider.

5 (f) The state police department may not charge a church or religious
 6 society any fees or costs for responding to a request for a release of a
 7 limited criminal history record of a prospective or current employee or
 8 a prospective or current volunteer of a child care ministry registered
 9 under IC 12-17.2-6 if the conditions set forth in IC 10-13-3-36(f) are
 10 met.

11 SECTION 17. IC 12-17.2-3.5-14 IS REPEALED [EFFECTIVE
 12 JULY 1, 2012]. ~~Sec. 14. (a) Notice of a determination made under this
 13 chapter must be provided under IC 4-21.5-3-6.~~

14 ~~(b) A person affected by a determination made under this chapter
 15 may seek administrative review under IC 4-21.5-3-7.~~

16 SECTION 18. IC 12-17.2-3.5-16 IS ADDED TO THE INDIANA
 17 CODE AS A NEW SECTION TO READ AS FOLLOWS
 18 [EFFECTIVE JULY 1, 2012]: **Sec. 16. (a) An employee or a
 19 volunteer shall immediately report to child protective services, the
 20 division, and local law enforcement authorities the employee's or
 21 volunteer's suspicion of physical abuse, sexual abuse, child neglect,
 22 or child exploitation of a child in the provider's care.**

23 **(b) A provider shall immediately notify the division and the
 24 parent or guardian of a child in the care of the provider
 25 concerning:**

- 26 **(1) an injury of the child that requires medical attention;**
- 27 **(2) the death of the child; or**
- 28 **(3) an emergency event involving the child.**

29 SECTION 19. IC 12-17.2-3.5-17 IS ADDED TO THE INDIANA
 30 CODE AS A NEW SECTION TO READ AS FOLLOWS
 31 [EFFECTIVE JULY 1, 2012]: **Sec. 17. (a) The division shall adopt
 32 rules under IC 4-22-2 to establish a list of violations of this article
 33 that would pose an immediate threat to the life or well-being of a
 34 child in the care of a provider.**

35 **(b) If an employee or agent of the division determines that a
 36 violation described in subsection (a) exists, the division shall:**

- 37 **(1) immediately suspend the provider's eligibility to receive a
 38 voucher under this chapter;**
- 39 **(2) issue an emergency or another temporary order under
 40 IC 4-21.5-4 requiring the provider to immediately cease
 41 operation of the child care program; and**
- 42 **(3) contact the parent or guardian of each child enrolled in the
 43 child care program to inform the parent or guardian:**

- 44 **(A) that the division has issued an order to require the
 45 provider to cease operation of the child care program; and**
- 46 **(B) of the reason for the order to cease operation;**

1 pending the outcome of proceedings conducted under sections 20
2 and 22 of this chapter.

3 (c) An emergency or another temporary order issued by an
4 employee or agent of the division must be approved by the
5 director.

6 (d) An approval under subsection (c) may be communicated
7 orally to the employee or agent issuing the order. However, the
8 division shall maintain a written record of the approval.

9 SECTION 20. IC 12-17.2-3.5-18 IS ADDED TO THE INDIANA
10 CODE AS A NEW SECTION TO READ AS FOLLOWS
11 [EFFECTIVE JULY 1, 2012]: **Sec. 18. The division may suspend a
12 provider's eligibility to receive a voucher payment under this
13 chapter for any of the following reasons:**

- 14 (1) The provider fails to comply with this chapter.
- 15 (2) The provider refuses to allow, during normal business
16 hours, the division or an agent of the division to inspect the
17 facility where the provider operates a child care program.
- 18 (3) The provider is determined by the division to have made
19 false statements in the provider's:
 - 20 (A) application for eligibility to receive a voucher
21 payment; or
 - 22 (B) records required by the division;
23 under this chapter.
- 24 (4) The provider fails to correct a problem identified by the
25 division within the period required by the division.
- 26 (5) Three (3) or more problems occurring within a twelve (12)
27 month period are identified by the division, regardless of
28 whether the provider corrects the problems within the period
29 required by the division.
- 30 (6) Credible allegations of fraud have been made against the
31 provider, as determined by the division.
- 32 (7) Criminal charges of welfare fraud have been filed against
33 the provider.

34 SECTION 21. IC 12-17.2-3.5-19 IS ADDED TO THE INDIANA
35 CODE AS A NEW SECTION TO READ AS FOLLOWS
36 [EFFECTIVE JULY 1, 2012]: **Sec. 19. The division may revoke a
37 provider's eligibility to receive a voucher payment under this
38 chapter for any of the following reasons:**

- 39 (1) Any of the reasons for suspension described in section
40 18(1) through 18(5) of this chapter.
- 41 (2) Allegations of welfare fraud committed by the provider
42 have been substantiated by the division.

43 SECTION 22. IC 12-17.2-3.5-20 IS ADDED TO THE INDIANA
44 CODE AS A NEW SECTION TO READ AS FOLLOWS
45 [EFFECTIVE JULY 1, 2012]: **Sec. 20. Except as provided in section
46 17 of this chapter, the division shall give a provider thirty (30)**

1 calendar days written notice by certified mail of an enforcement
2 action against the provider. The provider shall also be provided an
3 opportunity for an informal meeting with the division. The
4 provider must request the informal meeting within ten (10)
5 working days after receipt of the certified notice.

6 SECTION 23. IC 12-17.2-3.5-21 IS ADDED TO THE INDIANA
7 CODE AS A NEW SECTION TO READ AS FOLLOWS
8 [EFFECTIVE JULY 1, 2012]: **Sec. 21. (a) An administrative hearing**
9 **concerning the decision of the division to impose a sanction under**
10 **this chapter shall be provided upon a written request by the**
11 **provider. The request must be made within thirty (30) calendar**
12 **days after the provider receives an order under section 17 of this**
13 **chapter or a notice under section 20 of this chapter. The written**
14 **request must be made separately from an informal meeting request**
15 **made under section 20 of this chapter.**

16 **(b) The administrative hearing shall be held within sixty (60)**
17 **calendar days after the division receives the written request.**

18 SECTION 24. IC 12-17.2-3.5-22 IS ADDED TO THE INDIANA
19 CODE AS A NEW SECTION TO READ AS FOLLOWS
20 [EFFECTIVE JULY 1, 2012]: **Sec. 22. The division shall issue a**
21 **decision within sixty (60) calendar days after the conclusion of a**
22 **hearing held under section 21 of this chapter.**

23 SECTION 25. IC 12-17.2-3.5-23 IS ADDED TO THE INDIANA
24 CODE AS A NEW SECTION TO READ AS FOLLOWS
25 [EFFECTIVE JULY 1, 2012]: **Sec. 23. To reinstate a provider's**
26 **eligibility to receive a voucher payment under this chapter after**
27 **suspension, the following must occur:**

28 **(1) The provider must, within thirty (30) days after receiving**
29 **notice of the suspension, submit a plan of corrective action to**
30 **the division for approval.**

31 **(2) The plan must outline the steps and timetable for**
32 **immediate correction of the violations that caused the division**
33 **to suspend the eligibility.**

34 **(3) The division must approve the plan.**

35 SECTION 26. IC 12-17.2-3.5-24 IS ADDED TO THE INDIANA
36 CODE AS A NEW SECTION TO READ AS FOLLOWS
37 [EFFECTIVE JULY 1, 2012]: **Sec. 24. Following the suspension of**
38 **a provider's eligibility to receive a voucher payment under this**
39 **chapter, the division shall do one (1) of the following:**

40 **(1) Reinstate the eligibility.**

41 **(2) Except as provided in subdivision (3), extend the**
42 **suspension for not more than six (6) months.**

43 **(3) If criminal charges for welfare fraud are pending against**
44 **the provider, extend the suspension until the criminal matter**
45 **is resolved.**

46 **(4) Revoke the eligibility.**

1 SECTION 27. IC 12-17.2-3.5-25 IS ADDED TO THE INDIANA
 2 CODE AS A NEW SECTION TO READ AS FOLLOWS
 3 [EFFECTIVE JULY 1, 2012]: **Sec. 25. (a) After a provider's**
 4 **eligibility to receive a voucher payment under this chapter is**
 5 **revoked or suspended, the division shall publish notice of the**
 6 **revocation or suspension under IC 5-3-1 and notify in writing each**
 7 **person responsible for a child in the care of the provider that the**
 8 **eligibility has been revoked or suspended, including the reason for**
 9 **the revocation or suspension.**

10 (b) The written notice shall be sent to the last known address of
 11 each person responsible for a child in the care of the provider.

12 SECTION 28. IC 12-17.2-3.5-26 IS ADDED TO THE INDIANA
 13 CODE AS A NEW SECTION TO READ AS FOLLOWS
 14 [EFFECTIVE JULY 1, 2012]: **Sec. 26. An administrative review and**
 15 **a hearing conducted under this chapter must be conducted under**
 16 **rules adopted by the division under IC 4-22-2.**

17 SECTION 29. IC 12-17.2-6-27 IS ADDED TO THE INDIANA
 18 CODE AS A NEW SECTION TO READ AS FOLLOWS
 19 [EFFECTIVE JULY 1, 2012]: **Sec. 27. (a) Upon receiving notice of**
 20 **a claim of abuse or neglect in a facility where a provider operates**
 21 **a child care program described in IC 12-17.2-3.5, the department**
 22 **of child services shall:**

- 23 (1) forward a copy of the notice to the division; and
- 24 (2) conduct an investigation of the claim.

25 (b) After an investigation under subsection (a), the department
 26 of child services shall make a determination of whether abuse or
 27 neglect occurred at the facility.

28 (c) If the department of child services makes a determination
 29 under IC 31-33-8-12 that abuse or neglect at the facility is
 30 substantiated, the department shall send a copy of the
 31 department's report to the appropriate office of the division."

32 Renumber all SECTIONS consecutively.
 (Reference is to EHB 1136 as printed February 17, 2012.)

Senator TAYLOR