

IC 31-27

**ARTICLE 27. CHILD SERVICES: REGULATION OF
RESIDENTIAL CHILD CARE**

IC 31-27-1

Chapter 1. Applicability

IC 31-27-1-1

Application

Sec. 1. This article does not apply to the following:

(1) A child caring institution, foster family home, group home, or child placing agency licensed or operated by any of the following:

(A) Programs for children in kindergarten through grade 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 state department of health.

(D) The department of correction.

(2) A person who has received a child for adoption.

(3) A county jail or detention center.

As added by P.L.145-2006, SEC.273.

IC 31-27-1-2

Legalization of issuance of certain licenses

Sec. 2. Any license issued to a foster home, day care home, day care center, child caring institution, or children's home that:

(1) was issued before July 1, 1988, without the approval of the state board of health; and

(2) otherwise was issued in compliance with IC 12-3-2 (before its repeal, later codified at IC 12-17-4, before its repeal), as effective before July 1, 1988;

is legalized and validated.

As added by P.L.220-2011, SEC.507.

IC 31-27-2

Chapter 2. General Powers and Duties of the Department

IC 31-27-2-1

Duties of department of child services

Sec. 1. The department shall perform the following duties:

- (1) Administer the licensing and monitoring of child caring institutions, foster family homes, group homes, and child placing agencies in accordance with this article.
- (2) Ensure that a criminal history background check of an applicant is completed before issuing a license.
- (3) Provide for the issuance, denial, and revocation of licenses.
- (4) Cooperate with governing bodies of child caring institutions, foster family homes, group homes, and child placing agencies and their staffs to improve standards of child care.
- (5) Prepare at least biannually a directory of licensees, except for foster family homes, with a description of the program capacity and type of children served that will be distributed to the legislature, licensees, and other interested parties as a public document.
- (6) Deposit all license application fees collected under section 2 of this chapter in the department of child services child care fund established by IC 31-25-2-16.

As added by P.L.145-2006, SEC.273. Amended by P.L.146-2006, SEC.26; P.L.1-2007, SEC.201.

IC 31-27-2-2

Powers of department

Sec. 2. The department may do the following:

- (1) Prescribe forms for reports, statements, notices, and other documents required by this article or by the rules adopted under this article.
- (2) Increase public awareness of this article and the rules adopted under this article by preparing and publishing manuals and guides explaining this article and the rules adopted under this article.
- (3) Facilitate compliance with and enforcement of this article through the publication of materials under subdivision (2).
- (4) Prepare reports and studies to advance the purpose of this article.
- (5) Seek the advice and recommendations of state agencies whose information and knowledge would be of assistance in writing, revising, or monitoring rules developed under this article. These agencies, including the office of the attorney general, state department of health, division of mental health and addiction, bureau of criminal identification and investigation, and fire prevention and building safety commission, shall upon request supply necessary information to the department.
- (6) Make the directory of licensees available to the public for a

charge not to exceed the cost of reproducing the directory.

(7) Charge a reasonable processing fee for each license application and renewal as follows:

(A) For a child caring institution or group home license, a fee not to exceed three dollars (\$3) for each licensed bed based on total licensed bed capacity not to exceed a maximum fee of one hundred fifty dollars (\$150).

(B) For a child placing agency license, a fee not to exceed fifty dollars (\$50).

(8) Exercise any other regulatory and administrative powers necessary to carry out the functions of the department.

As added by P.L.145-2006, SEC.273.

IC 31-27-2-3

Foster family home application fee prohibition

Sec. 3. The department may not charge an application fee for a foster family home.

As added by P.L.145-2006, SEC.273.

IC 31-27-2-4

Rules; establishment of standards

Sec. 4. (a) The department shall adopt rules under IC 4-22-2, including emergency rules under IC 4-22-2-37.1, concerning the licensing and inspection of child caring institutions, foster family homes, group homes, and child placing agencies after consultation with the following:

(1) State department of health.

(2) Fire prevention and building safety commission.

(b) The rules adopted under subsection (a) shall be applied by the department and state fire marshal in the licensing and inspection of applicants for a license and licensees under this article.

(c) The rules adopted under IC 4-22-2 must establish minimum standards for the care and treatment of children in a secure private facility.

(d) The rules described in subsection (c) must include standards governing the following:

(1) Admission criteria.

(2) General physical and environmental conditions.

(3) Services and programs to be provided to confined children.

(4) Procedures for ongoing monitoring and discharge planning.

(5) Procedures for the care and control of confined persons that are necessary to ensure the health, safety, and treatment of confined children.

(e) The department shall license a facility as a secure private facility if the facility:

(1) meets the minimum standards required under subsection (c);

(2) provides a continuum of care and services; and

(3) is:

(A) licensed under IC 12-25, IC 16-21-2, or IC 31-27-3; or

(B) a unit of a facility licensed under IC 12-25 or

IC 16-21-2;
regardless of the facility's duration of or previous licensure as a child caring institution.

(f) A waiver of the rules may not be granted for treatment and reporting requirements.

As added by P.L.145-2006, SEC.273. Amended by P.L.131-2009, SEC.35; P.L.162-2011, SEC.22.

IC 31-27-2-5

Monitoring of licensed entities

Sec. 5. (a) The department shall monitor the entities licensed under this article for continued compliance with this article and the rules adopted by the department, including conducting the following:

(1) Onsite inspections, record reading, observation, and interviewing.

(2) An onsite licensing study at least one (1) time a year in announced or unannounced visits.

(b) The department is entitled to access to the premises, personnel, children in care, and records, including case records, foster care records, personnel files, corporate and fiscal records, and board minutes of the licensee. Access shall also be provided to personnel from other state agencies or other persons who provide inspections at the request of the department.

As added by P.L.145-2006, SEC.273.

IC 31-27-2-6

Investigation of complaints

Sec. 6. The department shall investigate complaints to determine possible noncompliance with the rules adopted by the department. A licensee is entitled to add comments concerning a complaint to the licensing file. The department shall consider all formal complaints against a licensee before a license may be renewed.

As added by P.L.145-2006, SEC.273.

IC 31-27-2-7

Child caring institutions and group homes operated by churches and religious ministries

Sec. 7. (a) Except as provided in subsections (b) and (c), the department shall exempt from licensure a child caring institution and a group home operated by a church or religious ministry that is a religious organization exempt from federal income taxation under Section 501(c)(3) of the Internal Revenue Code (as defined in IC 6-3-1-11) and that does not:

(1) accept for care:

(A) a child who is a delinquent child under IC 31-37-1-1 or IC 31-37-2-1; or

(B) a child who is a child in need of services under IC 31-34-1-1 through IC 31-34-1-9; or

(2) operate a residential facility that provides child care on a twenty-four (24) hour basis for profit.

(b) The department shall adopt rules under IC 4-22-2 to govern the inspection of a child caring institution and a group home operated by a church or religious ministry with regard to sanitation.

(c) The fire prevention and building safety commission shall adopt rules under IC 4-22-2 to govern the inspection of a child caring institution and a group home operated by a church or religious ministry under this section. The rules must provide standards for fire alarms and fire drills.

(d) A child caring institution and a group home operated by a church or religious ministry under this section shall comply with the rules established by the department and the fire prevention and building safety commission under this section.

As added by P.L.145-2006, SEC.273.

IC 31-27-2-8

Granting of variances and waivers

Sec. 8. (a) The department may grant a variance or waiver of a rule governing child caring institutions, foster family homes, group homes, or child placing agencies. A variance or waiver granted under this section must promote statewide practices and must protect the rights of persons affected by this article.

(b) The department may grant a variance to a rule if an applicant for a license or a licensee under this article does the following:

- (1) Submits to the department a written request for the variance in the form and manner specified by the department.
- (2) Documents that compliance with an alternative method of compliance approved by the department will not be adverse to the health, safety, or welfare of a child receiving services from the applicant for the variance, as determined by the department.

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

(d) The department may grant a waiver of a rule if an applicant for a license or a licensee under this article does the following:

- (1) Submits to the department a written request for the waiver in the form and manner specified by the department.
- (2) Documents that compliance with the rule specified in the application for the waiver will create an undue hardship on the applicant for the waiver, as determined by the department.
- (3) Documents that the applicant for the waiver will be in substantial compliance with the rules adopted by the department after the waiver is granted, as determined by the department.
- (4) Documents that noncompliance with the rule specified in the application for a waiver will not be adverse to the health, safety, or welfare of a child receiving services from the applicant for the waiver, as determined by the department.

(e) Except for a variance or waiver of a rule governing foster family homes, a variance or waiver of a rule under this section that conflicts with a building rule or fire safety rule adopted by the fire

prevention and building safety commission is not effective until the variance or waiver is approved by the fire prevention and building safety commission.

As added by P.L.145-2006, SEC.273.

IC 31-27-2-9

Expiration of variances and waivers

Sec. 9. A waiver or variance granted under section 8 of this chapter and a waiver or variance renewed under section 10 of this chapter expires on the earliest of the following:

- (1) The date when the license affected by the waiver or variance expires.
- (2) The date set by the department for the expiration of the waiver or variance.
- (3) The occurrence of the event set by the department for the expiration of the waiver or variance.
- (4) Four (4) years after the date that the waiver or variance becomes effective.

As added by P.L.145-2006, SEC.273.

IC 31-27-2-10

Renewal of variances and waivers

Sec. 10. (a) If the department determines that a waiver or variance expiring under section 9 of this chapter will continue to serve the public interest, the department may do the following:

- (1) Renew the waiver or variance without modifications.
- (2) Renew and modify the waiver or variance as needed to promote statewide practices and to protect the rights of persons affected by this chapter.

(b) Before taking an action under subsection (a), the department may require a licensee under this article to do the following:

- (1) Apply for the renewal of a waiver or variance on the form specified by the department.
- (2) Provide the information required by the department.

(c) Except for a variance or waiver of a rule governing foster family homes, before taking an action under subsection (a), the department must obtain the approval of the fire prevention and building safety commission for the action if either of the following occurs:

- (1) The fire prevention and building safety commission substantially changes a building rule or fire safety rule affected by the waiver or variance after the date the commission last approved the waiver or variance.
- (2) The department substantially modifies any part of a waiver or variance that conflicts with a building rule or fire safety rule adopted by the fire prevention and building safety commission.

As added by P.L.145-2006, SEC.273.

IC 31-27-2-11

Revocation of variances and waivers

Sec. 11. (a) If a licensee under this article violates a condition of a waiver or variance under this chapter, the department may issue an order revoking the waiver or variance before the waiver or variance expires under section 9 of this chapter.

(b) If a waiver or variance is revoked under subsection (a), the licensee is entitled to notice and an opportunity for a hearing as provided under this article.

As added by P.L.145-2006, SEC.273.

IC 31-27-3

Chapter 3. Regulation of Child Caring Institutions

IC 31-27-3-1

License required for operation

Sec. 1. (a) A person may not operate a child caring institution without a license issued under this article.

(b) The state or a political subdivision of the state may not operate a child caring institution or receive children for placement in a child caring institution without a license issued under this article.

(c) A person may not operate a child caring institution if:

(1) the number of children maintained on the premises at any one (1) time is greater than the number authorized by the license; or

(2) the children are maintained in a building or place not designated by the license.

As added by P.L.145-2006, SEC.273.

IC 31-27-3-2

Conditions for issuance of license

Sec. 2. (a) A license may be issued only if the child caring institution is in substantial compliance with food, health, safety, and sanitation standards under rules adopted by the department under IC 31-27-2-4 or in accordance with a variance or waiver approved by the department under IC 31-27-2-8.

(b) A license may be issued only if the child caring institution is in compliance with the fire and life safety rules as determined by the state fire marshal under rules adopted by the department under IC 31-27-2-4 or in accordance with a variance or waiver approved by the department under IC 31-27-2-8.

(c) The department may issue a waiver or variance regarding a determination by the state fire marshal under subsection (b).

(d) Except as provided in subsection (e), the department may not issue a license under this chapter unless the child caring institution is staffed by, when children are being cared for, at least one (1) child care provider who is annually certified in a program on pediatric cardiopulmonary resuscitation and pediatric airway obstruction under the American Heart Association's Basic Life Support Course D or any other comparable course approved by the department.

(e) The requirement under subsection (d) does not apply to a child caring institution that only serves children who are at least thirteen (13) years of age and less than twenty-one (21) years of age. However, a child caring institution that only serves children who are at least thirteen (13) years of age and less than twenty-one (21) years of age must have on duty, when children are being cared for, at least one (1) child care provider who is annually certified in a program on cardiopulmonary resuscitation as required by the department.

As added by P.L.145-2006, SEC.273.

IC 31-27-3-3

Apply for licenses; criminal history checks

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) That the applicant has not been convicted of:

(A) a felony; or

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

(2) That the applicant has not 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) An employee or a volunteer of the applicant who has or will have direct contact on a regular and continuing basis with a child who is or will be placed in a facility operated by 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 an act listed in IC 31-27-4-13(a) 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) A criminal history check of a person described in subsection (d)(2) or (d)(3) must be completed on or before the date the person is employed or assigned as a volunteer. However, a fingerprint based criminal history background check under IC 31-9-2-22.5(1)(B) for a person described in subsection (d)(3) must be completed not later than the conclusion of the first ninety (90) days of employment in or assignment of a volunteer to a position described in subsection (d)(3). If a person described in this subsection has been the subject of a criminal history check (as described in IC 31-9-2-22.5) that was conducted not more than one (1) year before the date the license application is submitted to the department, a new criminal history check of that person is not required.

(i) An applicant or licensee may provisionally employ an individual or assign a volunteer described in subsection (d)(3) for whom a criminal history check is required under subsection (d)(3) during the period after the process of requesting fingerprint based criminal history background check information has been initiated by or on behalf of the applicant or licensee but before the determination is obtained by or communicated to the applicant or licensee. If the determination is not received by not later than the ninety (90) days after the effective date of hire or volunteer assignment, the employee or volunteer relationship must be terminated or suspended until a determination is received. An employee or volunteer whose determination has not yet been received may not have direct contact with a child who is or will be placed at a facility operated by the applicant or licensee unless the direct contact occurs only in the presence of a volunteer or employee of the applicant or licensee who has been the subject of a completed and approved criminal history check. In determining whether to provisionally hire or assign as a volunteer an individual described in subsection (d)(3), the applicant or licensee shall consider the following:

- (1) The training time required by an employee or a volunteer.
- (2) The safety and security of the children under the supervision of the applicant or licensee.
- (3) The safety and security of the other staff and volunteers working under the supervision of the applicant or licensee.
- (4) The staffing concerns of the applicant or licensee.
- (5) Any other factor relating to the safety and security of the applicant's or licensee's operations.

(j) 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 background 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) 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.

As added by P.L.145-2006, SEC.273. Amended by P.L.138-2007, SEC.47; P.L.162-2011, SEC.23.

IC 31-27-3-4

Child caring institution established by county; operation

Sec. 4. (a) A county may establish a child caring institution. The child caring institution may be operated by:

- (1) the county; or
- (2) a public or private agency under contract with the county; and must be operated under the rules adopted by the director under this article.

(b) This section does not affect the following:

- (1) IC 31-31-1-1 or IC 31-40, requiring the county fiscal body to appropriate sufficient money to pay for services ordered by the juvenile court.
- (2) IC 31-31-8, authorizing the juvenile court to establish detention and shelter care facilities.
- (3) IC 12-13-5 and IC 12-19-1, requiring the division of family resources, the office, and the county departments to provide care and treatment for delinquent children and children in need of services.

As added by P.L.145-2006, SEC.273.

IC 31-27-3-5

Grounds for denial of license applications; waiver

Sec. 5. (a) The following constitute sufficient grounds for a denial of a license application:

(1) A determination by the department of child abuse or neglect by:

- (A) the applicant; or
- (B) an employee or a volunteer of the applicant who has direct contact, on a regular and continuous basis, with children who are under the direct supervision of the applicant.

(2) A criminal conviction of the applicant, or the director or manager of a facility where children will be placed by the applicant, of:

- (A) a felony;
- (B) a misdemeanor related to the health and safety of a child;
- (C) a misdemeanor for operating a child caring institution, foster family home, group home, or child placing agency without a license under this article (or IC 12-17.4 before its repeal); or

- (D) a misdemeanor for operating a child care center or child care home without a license under IC 12-17.2.
 - (3) A determination by the department that the applicant made false statements in the applicant's application for licensure.
 - (4) A determination by the department that the applicant made false statements in the records required by the department.
 - (5) A determination by the department that:
 - (A) the applicant; or
 - (B) an employee or a volunteer of the applicant who has direct contact, on a regular and continuous basis, with children who are under the direct supervision of the applicant;
previously operated a home or facility without a license required under any applicable provision of this article (or IC 12-17.4 before its repeal) or IC 12-17.2.
 - (6) A juvenile adjudication of the applicant for an act listed in IC 31-27-4-13(a) that, if committed by an adult, would be a felony.
- (b) An application for a license may also be denied if an employee or a volunteer of the applicant who has direct contact on a regular and continuous basis with children who are under the direct supervision of the applicant has had any of the following:
- (1) A conviction of a felony described in IC 31-27-4-13(a).
 - (2) A conviction of any other felony or a misdemeanor relating to the health and safety of a child, unless the applicant is granted a waiver by the department to employ or assign the person as a volunteer in a position described in this subsection.
 - (3) A juvenile adjudication for an act listed in IC 31-27-4-13(a) that, if committed by an adult, would be a felony, unless the applicant is granted a waiver by the department to employ or assign the person as a volunteer in a position described in this subsection.
- (c) In determining whether to grant a waiver under subsection (b), the department shall consider the following factors:
- (1) The length of time that has passed since the disqualifying conviction.
 - (2) The severity, nature, and circumstances of the offense.
 - (3) Evidence of rehabilitation.
 - (4) The duties and qualifications required for the proposed employment positions or volunteer assignment.
- (d) Notwithstanding subsection (a) or (b), if:
- (1) a license application could be denied due to a criminal conviction of, or a determination of child abuse or neglect by, an employee or a volunteer of the applicant; and
 - (2) the department determines that the employee or volunteer has been dismissed by the applicant;
the criminal conviction of, or determination of child abuse or neglect by, the former employee or former volunteer does not constitute a sufficient basis for the denial of a license application.
- (e) The department may adopt rules to implement this section.

As added by P.L.145-2006, SEC.273. Amended by P.L.138-2007, SEC.48; P.L.162-2011, SEC.24.

IC 31-27-3-6

Incomplete applications

Sec. 6. The department may not act on an incomplete application. The department shall return an incomplete application with a notation concerning omissions. The return of an incomplete application is without prejudice.

As added by P.L.145-2006, SEC.273.

IC 31-27-3-7

Investigation of applicants

Sec. 7. The department shall investigate a person seeking licensure to determine whether the person is in compliance with this article and the rules adopted under this article. The investigation shall be conducted at a reasonable time and in a reasonable manner, in announced or unannounced visits. Activities may include onsite inspections, record reading, observation, and interviewing. The department may require that evidence of compliance with the rules be presented in a form and manner specified in the rules.

As added by P.L.145-2006, SEC.273.

IC 31-27-3-8

Issuance of license

Sec. 8. The department shall issue a license to a person who meets all of the license requirements when an investigation shows the applicant to be in compliance under this article.

As added by P.L.145-2006, SEC.273.

IC 31-27-3-9

Eligibility for waivers and variances

Sec. 9. A child caring institution may be eligible to receive a waiver or variance from the requirements of this chapter by complying with IC 31-27-2-8.

As added by P.L.145-2006, SEC.273.

IC 31-27-3-10

Waiver of maximum stay for child

Sec. 10. (a) The department may grant a waiver of the sixty (60) day maximum stay for a child if the child caring institution licensed as a shelter care facility applies for the waiver before the expiration of the sixty (60) day period.

(b) The child caring institution shall document in the request for a waiver that the waiver is in the best interest of the child.

As added by P.L.145-2006, SEC.273.

IC 31-27-3-11

Denial of license

Sec. 11. (a) The department shall deny a license when an

applicant fails to meet the requirements for a license.

(b) The department shall send written notice by certified mail that the application has been denied and give the reasons for the denial.

(c) An administrative hearing concerning the denial of a license shall be provided upon written request by the applicant. The request must be made not more than thirty (30) days after receiving the written notice under subsection (b).

(d) An administrative hearing shall be held not more than sixty (60) days after receiving the written request.

(e) An administrative hearing shall be held in accordance with IC 4-21.5-3.

(f) The department shall issue a decision not more than sixty (60) days after the conclusion of a hearing.

As added by P.L.145-2006, SEC.273.

IC 31-27-3-12

Investigation of unlicensed premises

Sec. 12. The department is responsible for investigating any premises that the department has reason to believe are being used for child care without a license in circumstances where a license is required.

As added by P.L.145-2006, SEC.273.

IC 31-27-3-13

Duration of license; limitations; renewal; public display

Sec. 13. (a) A license for a child caring institution expires four (4) years after the date of issuance, unless the license is revoked, modified to a probationary 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 department.

(c) When a licensee submits a timely application for renewal, the current license remains in effect until the department issues a license or denies the application.

(d) A current license must be publicly displayed.

As added by P.L.145-2006, SEC.273. Amended by P.L.146-2006, SEC.27.

IC 31-27-3-14

Probationary status; duration; expiration; extension

Sec. 14. (a) The department may place a licensee on probationary status if the licensee is temporarily unable to comply with a rule and if:

- (1) the noncompliance does not present an immediate threat to the health and well-being of the children;
- (2) the licensee files a plan with the department, state department of health, or the state fire marshal to correct the areas of noncompliance within the probationary period; and

(3) the department, state department of health, or state fire marshal approves the plan.

(b) A probationary status period is for not more than six (6) months. However, the department may extend a probationary status period for one (1) additional period of six (6) months.

(c) At the expiration of a probationary status period, the department shall:

(1) reactivate the license to the end of the original term of the license;

(2) extend the probationary status period as permitted under subsection (b); or

(3) revoke the license.

As added by P.L.145-2006, SEC.273. Amended by P.L.146-2006, SEC.28.

IC 31-27-3-15

Inspections

Sec. 15. The department and the state fire marshal shall do the following:

(1) Make annual onsite inspections.

(2) Keep written records of their monitoring activities and inspections.

As added by P.L.145-2006, SEC.273.

IC 31-27-3-16

Cooperation by licensees

Sec. 16. A licensee shall cooperate with the department and the state fire marshal in carrying out the activities required by section 15 of this chapter, including permitting the department and the state fire marshal to conduct announced or unannounced inspections.

As added by P.L.145-2006, SEC.273.

IC 31-27-3-17

Sprinkler system requirements

Sec. 17. The fire prevention and building safety commission may not adopt rules requiring the installation of a sprinkler system in a living unit of a licensed child caring institution in which fewer than sixteen (16) children reside, each of whom is:

(1) ambulatory; and

(2) at least six (6) years of age.

As added by P.L.145-2006, SEC.273.

IC 31-27-3-18

Records

Sec. 18. (a) A licensee shall keep records regarding each child in the control and care of the licensee as the department requires and shall report to the department upon request the facts the department requires with reference to children.

(b) The department shall keep records regarding children and facts learned about children and the children's parents or relatives

confidential.

(c) The following have access to records regarding children and facts learned about children:

- (1) A state agency involved in the licensing of the child caring institution.
- (2) A legally mandated child protection agency.
- (3) A law enforcement agency.
- (4) An agency having the legal responsibility to care for a child placed at the child caring institution.
- (5) The parent, guardian, or custodian of the child at the child caring institution.
- (6) A citizen review panel established under IC 31-25-2-20.4.
- (7) The department of child services ombudsman established by IC 4-13-19-3.

As added by P.L.145-2006, SEC.273. Amended by P.L.138-2007, SEC.49; P.L.182-2009(ss), SEC.374.

IC 31-27-3-19

Notice of enforcement actions; informal meetings

Sec. 19. Except as provided in section 29 of this chapter, the department shall give a licensee thirty (30) days written notice by certified mail of an enforcement action. The licensee shall also be provided with the opportunity for an informal meeting with the department. The licensee must request the meeting not more than ten (10) working days after receipt of the certified notice.

As added by P.L.145-2006, SEC.273.

IC 31-27-3-20

Administrative hearings

Sec. 20. (a) An administrative hearing concerning the decision of the department to impose a sanction under this chapter shall be provided upon a written request by the child caring institution. The request must be made not more than thirty (30) days after receiving notice under section 19 of this chapter. The written request must be made separately from an informal meeting request made under section 19 of this chapter.

(b) An administrative hearing shall be held not more than sixty (60) days after receiving the written request.

As added by P.L.145-2006, SEC.273.

IC 31-27-3-21

Procedure for administrative hearings

Sec. 21. A hearing requested under section 20 of this chapter shall be held in accordance with IC 4-21.5-3.

As added by P.L.145-2006, SEC.273.

IC 31-27-3-22

Issuance of decisions

Sec. 22. The department shall issue a decision not more than sixty (60) days after the conclusion of a hearing.

As added by P.L.145-2006, SEC.273.

IC 31-27-3-23

Repealed

(Repealed by P.L.146-2006, SEC.60.)

IC 31-27-3-24

Repealed

(Repealed by P.L.146-2006, SEC.60.)

IC 31-27-3-25

Repealed

(Repealed by P.L.146-2006, SEC.60.)

IC 31-27-3-26

Cessation of operation upon revocation of license

Sec. 26. A child caring institution shall cease operation when the license of the child caring institution is revoked.

As added by P.L.145-2006, SEC.273.

IC 31-27-3-27

Notice

Sec. 27. (a) After a license is revoked, the department shall notify in writing each person responsible for each child in care to ensure that those children are removed.

(b) The written notice shall be sent to the last known address of the person responsible for the child in care and shall state that the license of the child caring institution has been revoked.

As added by P.L.145-2006, SEC.273. Amended by P.L.146-2006, SEC.29.

IC 31-27-3-28

Judicial review

Sec. 28. A final decision of the department made after a hearing is subject to judicial review under IC 4-21.5-5.

As added by P.L.145-2006, SEC.273.

IC 31-27-3-29

Investigations of noncompliance; injunctions; corrective action plans; removal of children; informal meetings

Sec. 29. (a) The department shall investigate a report of a licensed child caring institution's noncompliance with this article or the rules adopted under this article if there is reasonable cause to believe that a licensee's noncompliance with this article and rules adopted under this article creates an imminent danger of serious bodily injury to a child or an imminent danger to the health of a child and shall report the department's findings to the attorney general and to the county office and the prosecuting attorney in the county where the institution is located.

(b) The attorney general or the department may do the following:

(1) Seek the issuance of a search warrant to assist in the investigation.

(2) File an action for injunctive relief to stop the operation of a child caring institution if there is reasonable cause to believe that a licensee's noncompliance with this article or the rules adopted under this article creates an imminent danger of serious bodily injury to a child or an imminent danger to the health of a child.

(c) The department may require a plan of corrective action for emergency protection of the children described in subsection (b).

(d) The department may provide for the removal of children from child caring institutions described in subsection (b).

(e) An opportunity for an informal meeting with the department shall be available after the injunctive relief is ordered.

As added by P.L.145-2006, SEC.273.

IC 31-27-3-30

Expiration of injunctions for creation of imminent danger

Sec. 30. A court order granted under section 29(b)(2) of this chapter expires upon the later of the following:

(1) Sixty (60) days after the order is issued.

(2) When a final department decision is issued under sections 20 through 22 of this chapter if notice of an enforcement action is issued under section 19 of this chapter.

As added by P.L.145-2006, SEC.273.

IC 31-27-3-31

Grounds for revocation of licenses; waiver

Sec. 31. (a) The following constitute sufficient grounds for revocation of a license:

(1) A determination by the department of child abuse or neglect by:

(A) the licensee; or

(B) an employee or a volunteer of the licensee who has direct contact, on a regular and continuous basis, with children who are under the direct supervision of the licensee.

(2) A criminal conviction of the licensee, or the director or manager of a facility where children will be placed by the licensee, of any of the following:

(A) A felony.

(B) A misdemeanor related to the health or safety of a child.

(C) A misdemeanor for operating a child caring institution, foster family home, group home, or child placing agency without a license under this article (or IC 12-17.4 before its repeal).

(D) A misdemeanor for operating a child care center or child care home without a license under IC 12-17.2.

(3) A determination by the department that the licensee made false statements in the licensee's application for licensure.

(4) A determination by the department that the licensee made

false statements in the records required by the department.

(5) A determination by the department that:

(A) the licensee; or

(B) an employee or a volunteer of the licensee who has direct contact, on a regular and continuous basis, with children who are under the direct supervision of the licensee; previously operated a home or facility without a license required under any applicable provision of this article (or IC 12-17.4 before its repeal) or IC 12-17.2.

(6) A juvenile adjudication of a licensee for an act listed in IC 31-27-4-13(a) that, if committed by an adult, would be a felony.

(b) A license may also be revoked if an employee or volunteer of the licensee who has direct contact on a regular and continuous basis with children who are under the direct supervision of the licensee has had any of the following:

(1) A conviction of a felony described in IC 31-27-4-13(a).

(2) A conviction of any other felony or a misdemeanor relating to the health and safety of a child, unless the licensee is granted a waiver by the department to employ or assign the person as a volunteer in a position described in this subsection.

(3) A juvenile adjudication for an act listed in IC 31-27-4-13(a) that, if committed by an adult, would be a felony, unless the licensee is granted a waiver by the department to employ or assign the person as a volunteer in a position described in this subsection.

(c) In determining whether to grant a waiver under subsection (b), the department shall consider the following factors:

(1) The length of time that has passed since the disqualifying conviction.

(2) The severity, nature, and circumstances of the offense.

(3) Evidence of rehabilitation.

(4) The duties and qualifications required for the proposed employment positions or volunteer assignment.

(d) Notwithstanding subsection (a) or (b), if:

(1) a license could be revoked due to a criminal conviction of, or a determination of child abuse or neglect by, an employee or a volunteer of the licensee; and

(2) the department determines that the employee or volunteer has been dismissed by the licensee within a reasonable time after the licensee became aware of the conviction or determination;

the criminal conviction of, or determination of child abuse or neglect by, the former employee or former volunteer does not constitute a sufficient basis for the revocation of a license.

(e) The department may adopt rules to implement this section.

As added by P.L.145-2006, SEC.273. Amended by P.L.138-2007, SEC.50; P.L.162-2011, SEC.25.

Compliance with rules; disciplinary sanctions; revocation of license

Sec. 32. (a) A licensee shall operate a child caring institution in compliance with the rules established under this article and is subject to the disciplinary sanctions under subsection (b) if the department finds that the licensee has violated this article or a rule adopted under this article.

(b) After complying with the procedural provisions in sections 19 through 22 of this chapter, the department may revoke the license when the department finds that a licensee has committed a violation under subsection (a).

As added by P.L.145-2006, SEC.273. Amended by P.L.146-2006, SEC.30.

IC 31-27-3-33**Investigations of unlicensed operation; injunctions; civil penalties**

Sec. 33. (a) The department shall investigate a report of an unlicensed child caring institution and report the department's findings to the attorney general and to the county office and the prosecuting attorney in the county where the institution is located.

(b) The attorney general or the department may do the following:

(1) Seek the issuance of a search warrant to assist in the investigation.

(2) File an action for injunctive relief to stop the operation of a child caring institution if there is reasonable cause to believe that the child caring institution is operating without a license required under this article.

(3) Seek in a civil action a civil penalty not to exceed one hundred dollars (\$100) a day for each day a child caring institution is operating without a license required under this article.

(c) An opportunity for an informal meeting with the department shall be available after the injunctive relief is ordered.

(d) The civil penalties collected under this section shall be deposited in the department of child services child care fund established by IC 31-25-2-16.

As added by P.L.145-2006, SEC.273. Amended by P.L.1-2007, SEC.202.

IC 31-27-3-34**Expiration of injunction for unlicensed operation**

Sec. 34. A court order granted under section 33(b)(2) of this chapter expires when the child caring institution is issued a license.

As added by P.L.145-2006, SEC.273.

IC 31-27-3-35**Violations of chapter**

Sec. 35. A person who knowingly or intentionally violates this chapter commits a Class B misdemeanor.

As added by P.L.145-2006, SEC.273.

IC 31-27-4

Chapter 4. Regulation of Foster Homes

IC 31-27-4-1

License required for operation

Sec. 1. (a) A person may not operate a foster family home without a license issued under this article.

(b) The state or a political subdivision of the state may not operate a foster family home without a license issued under this article.

(c) A person may not operate a foster family home if:

- (1) the number of children maintained on the premises at any one (1) time is greater than the number authorized by the license; or
- (2) the children are maintained in a building or place not designated by the license.

As added by P.L.145-2006, SEC.273.

IC 31-27-4-2

Therapeutic foster home; licenses; requirements; supervision and care limits

Sec. 2. (a) A person may not operate a therapeutic foster family home without a license issued under this article.

(b) The state or a political subdivision of the state may not operate a therapeutic foster family home without a license issued under this article.

(c) The department may issue a license only for a therapeutic foster family home that meets:

- (1) all the licensing requirements of a foster family home; and
- (2) the additional requirements described in this section.

(d) An applicant for a therapeutic foster family home license must do the following:

- (1) Be licensed as a foster parent under this chapter and 465 IAC 2-1-1 et seq.
- (2) Participate in preservice training that includes:
 - (A) preservice training to be licensed as a foster parent under 465 IAC 2-1-1 et seq.; and
 - (B) additional preservice training in therapeutic foster care.

(e) A person who is issued a license to operate a therapeutic foster family home shall, within one (1) year after meeting the training requirements of subsection (d)(2) and, annually thereafter, participate in training that includes:

- (1) training as required in order to be licensed as a foster parent under 465 IAC 2-1-1 et seq.; and
- (2) additional training in order to be licensed as a therapeutic foster parent under this chapter.

(f) An operator of a therapeutic foster family home may not provide supervision and care in a therapeutic foster family home to more than four (4) children at the same time, including the children for whom the applicant or operator is a parent, stepparent, guardian, custodian, or other relative, and only two (2) of the children may be

foster children. The department may grant an exception to this subsection whenever the placement of siblings in the same therapeutic foster family home is desirable, the foster child has an established, meaningful relationship with the therapeutic foster parent, or it is otherwise in the foster child's best interests.

(g) An operator of a therapeutic foster family home that has a therapeutic foster child placed with the therapeutic foster family home may not accept a placement of a child who is not a therapeutic foster child unless the child who is not a therapeutic foster child is a sibling of the therapeutic foster child who is placed with the therapeutic foster family home or it is in the best interests of the child being placed.

(h) A therapeutic foster family home may provide care for an individual receiving foster care for older youth under IC 31-28-5.7-1 if the individual is no longer under the care and supervision of a juvenile court.

(i) An individual who receives foster care for older youth under IC 31-28-5.7-1 in a therapeutic foster family home shall not be considered in determining whether the therapeutic foster family home meets or exceeds the limit set forth in subsection (f).

(j) The department shall adopt rules under IC 4-22-2, including emergency rules under IC 4-22-2-37.1, necessary to carry out this section, including rules governing the number of hours of training required under subsections (d) and (e).

(k) If a therapeutic foster family home does not meet the requirements under subsection (f) or (g) on July 1, 2011, any foster child placed in the home prior to July 1, 2011, may remain placed. However, a new placement of a child may not be made in violation of this section.

As added by P.L.145-2006, SEC.273. Amended by P.L.143-2008, SEC.7; P.L.131-2009, SEC.36; P.L.162-2011, SEC.26.

IC 31-27-4-3

Special needs foster family home; licenses; requirements; supervision and care limits; considerations

Sec. 3. (a) A person may not operate a special needs foster family home without a license issued under this article.

(b) The state or a political subdivision of the state may not operate a special needs foster family home without a license issued under this article.

(c) The department may only issue a license for a special needs foster family home that meets:

- (1) all the licensing requirements of a foster family home; and
- (2) the additional requirements described in this section.

(d) An applicant for a special needs foster family home license must be licensed as a foster parent under 465 IAC 2-1-1 et seq. that includes participating in preservice training.

(e) A person who is issued a license to operate a special needs foster family home shall, within one (1) year after meeting the training requirements of subsection (d) and, annually thereafter,

participate in training that includes:

- (1) training as required in order to be licensed as a foster parent under 465 IAC 2-1-1 et seq.; and
- (2) additional training that includes specialized training to meet the child's or individual's specific needs.

(f) An operator of a special needs foster family home may not provide supervision and care as a special needs foster family home if more than:

- (1) five (5) individuals, each of whom:
 - (A) is less than eighteen (18) years of age; or
 - (B) is at least eighteen (18) years of age and is receiving care and supervision under an order of a juvenile court; or
- (2) four (4) individuals less than six (6) years of age;

including the children or individuals for whom the provider is a parent, stepparent, guardian, custodian, or other relative, receive care and supervision in the home at the same time. Not more than four (4) of the five (5) individuals described in subdivision (1) may be less than six (6) years of age. The department may grant an exception to this section whenever the department determines that the placement of siblings in the same special needs foster home is desirable, the foster child has an established, meaningful relationship with the foster parents, or it is otherwise in the foster child's best interests.

(g) An individual who receives foster care for older youth under IC 31-28-5.7-1 in a special needs foster family home shall not be considered in determining whether the special needs foster family home meets or exceeds the limit set forth in subsection (f)(1).

(h) The department shall consider the specific needs of each special needs foster child or individual whenever the department determines the appropriate number of children or individuals to place in the special needs foster home under subsection (f). The department may require a special needs foster family home to provide care and supervision to less than the maximum number of children or individuals allowed under subsection (f) upon consideration of the specific needs of a special needs foster child or individual.

(i) A special needs foster family home may provide care for an individual receiving foster care for older youth under IC 31-28-5.7-1 if the individual is no longer under the care and supervision of a juvenile court.

(j) The department shall adopt rules under IC 4-22-2, including emergency rules under IC 4-22-2-37.1, necessary to carry out this section, including rules governing the number of hours of training required under subsection (e).

(k) If a special needs foster family home does not meet the requirements under subsection (f) on July 1, 2011, any foster child placed in the home prior to July 1, 2011 may remain placed. However, a new placement of a child may not be made in violation of this section.

As added by P.L.145-2006, SEC.273. Amended by P.L.143-2008, SEC.8; P.L.131-2009, SEC.37; P.L.162-2011, SEC.27.

IC 31-27-4-4

Consultation with fire prevention and building safety commission

Sec. 4. The fire prevention and building safety commission shall provide consultation regarding the licensure of foster family homes to the department upon request.

As added by P.L.145-2006, SEC.273.

IC 31-27-4-5

Apply for licenses; criminal history checks

Sec. 5. (a) An applicant must apply for a foster family 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) An applicant shall submit the necessary information, forms, or consents for the department to conduct a criminal history check for each individual who is an applicant.

(e) The department or, at the discretion of the department, an applicant, shall conduct a criminal history check of:

(1) the applicant's employees and volunteers who have or will have direct contact, on a regular and continuing basis, with children who are or will be under the direct supervision of the applicant; and

(2) all household members who are at least fourteen (14) years of age.

(f) If the applicant conducts criminal history checks under subsection (e), the applicant shall maintain records of the information received concerning each individual subject of a criminal history check.

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

(1) make a determination 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 an act listed in section 13(a) of this chapter 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 (e); and
- (4) maintain a record of every report and all information the department receives concerning a person described in subsection (e).

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

(i) With the exception of a fingerprint based criminal history background check under IC 31-9-2-22.5(1)(B) for a person described in subsection (e)(1), a criminal history check concerning a person described in subsection (e) must be completed on or before the date on which the subject of the check is first employed or assigned as a volunteer in a position described in subsection (e)(1) or first becomes a resident of the applicant's household as described in subsection (e)(2). A fingerprint based criminal history background check under IC 31-9-2-22.5(1)(B) for a person described in subsection (e)(1) must be completed not later than the conclusion of the first ninety (90) days of employment in or assignment of a volunteer. However, if a person described in this subsection has been the subject of a criminal history check that was conducted not more than one (1) year before the date the license application is submitted to the department, a new criminal history check of that person is not required.

(j) An applicant or a licensee described in subsection (e)(1) may provisionally employ an individual or assign a volunteer for whom a criminal history check is required during the period after the process of requesting fingerprint based criminal history background check information has been initiated by or on behalf of the applicant or licensee but before the determination is obtained by or communicated to the applicant or licensee. If the determination is not received by not later than ninety (90) days after the effective date of hire or volunteer assignment, the employee or volunteer relationship must be terminated or suspended until a determination is received. An employee or volunteer whose determination has not yet been received may not have direct contact with a child who is or will be placed at a facility operated by the applicant or licensee unless the direct contact occurs only in the presence of a volunteer or employee of the applicant or licensee who has been the subject of a completed and approved criminal history check. In determining whether to provisionally hire or assign as a volunteer an individual described in subsection (e)(1), the applicant or licensee shall consider the following:

- (1) The training time required by an employee or a volunteer.
- (2) The safety and security of the children under the supervision of the applicant or licensee.
- (3) The safety and security of the other staff and volunteers

working under the supervision of the applicant or licensee.

(4) The staffing concerns of the applicant or licensee.

(5) Any other factor relating to the safety and security of the applicant's or licensee's operations.

(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 background 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) 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.

As added by P.L.145-2006, SEC.273. Amended by P.L.138-2007, SEC.51; P.L.162-2011, SEC.28.

IC 31-27-4-6

Grounds for denial of license applications; waiver

Sec. 6. (a) The following constitute sufficient grounds for a denial of a license application:

(1) A determination by the department of child abuse or neglect by:

(A) the applicant;

(B) an employee or a volunteer of the applicant who has direct contact, on a regular and continuous basis, with children who are under the direct supervision of the applicant; or

(C) a person residing in the applicant's residence.

(2) A criminal conviction of the applicant of any of the following:

(A) a felony;

(B) a misdemeanor related to the health and safety of a child;

(C) a misdemeanor for operating a child care center or child care home without a license under IC 12-17.2-5; or

(D) a misdemeanor for operating a foster family home without a license under this chapter (or IC 12-17.4-4 before its repeal).

(3) A determination by the department that the applicant made false statements in the applicant's application for licensure.

(4) A determination by the department that the applicant made false statements in the records required by the department.

(5) A determination by the department that:

(A) the applicant;

(B) an employee or a volunteer of the applicant who has direct contact, on a regular and continuous basis, with children who are under the direct supervision of the applicant; or

(C) a person residing in the applicant's residence;

previously operated a child care center or child care home without a license under IC 12-17.2-5 or a foster family home without a license under this chapter (or IC 12-17.4-4 before its repeal).

(6) A juvenile adjudication of the applicant for an act listed in section 13(a) of this chapter that, if committed by an adult, would be a felony.

(b) An application for a license may also be denied if an individual who resides in the residence of the applicant or an employee or volunteer of the applicant who has direct contact on a regular and continuous basis with children who are under the direct supervision of the applicant has had any of the following:

(1) A conviction of a felony described in IC 31-27-4-13(a).

(2) A conviction of any other felony or a misdemeanor relating to the health and safety of a child, unless the applicant is granted a waiver by the department to employ or assign the person as a volunteer in a position described in this subsection or to permit the individual to reside in the applicant's residence.

(3) A juvenile adjudication for an act listed in section 13(a) of this chapter that, if committed by an adult, would be a felony, unless the applicant is granted a waiver by the department to:

(A) employ or assign the person as a volunteer in a position described in this subsection; or

(B) permit the individual to reside in the applicant's residence.

(c) In determining whether to grant a waiver under subsection (b), the department shall consider the following factors:

(1) The length of time that has passed since the disqualifying conviction.

(2) The severity, nature, and circumstances of the offense.

(3) Evidence of rehabilitation.

(4) The duties and qualifications required for the proposed employment positions or volunteer assignment.

(5) The nature and extent of unsupervised contact with children residing in the home.

(d) Notwithstanding subsection (a) or (b), if:

(1) a license application could be denied due to a criminal conviction of, or a determination of child abuse or neglect by, an employee, a volunteer, or a person residing in the residence of the applicant; and

(2) the department determines that the employee or volunteer has been dismissed by the applicant or that the person residing in the residence no longer resides there;

the criminal conviction of, or determination of child abuse or neglect by, the former employee, former volunteer, or former household resident does not constitute a sufficient basis for the denial of a license application.

(e) The department may adopt rules to implement this section.

As added by P.L.145-2006, SEC.273. Amended by P.L.138-2007, SEC.52; P.L.162-2011, SEC.29.

IC 31-27-4-7

Incomplete applications

Sec. 7. The department may not act on an incomplete application. The department shall return an incomplete application with a notation concerning omissions. The return of an incomplete application is without prejudice.

As added by P.L.145-2006, SEC.273.

IC 31-27-4-8

Supervision and care limits; exceptions

Sec. 8. (a) An applicant may not provide supervision and care as a foster family home if more than:

(1) five (5) individuals, each of whom:

(A) is less than eighteen (18) years of age; or

(B) is at least eighteen (18) years of age and is receiving care and supervision under an order of a juvenile court; or

(2) four (4) individuals less than six (6) years of age;

including the children or individuals for whom the provider is a parent, stepparent, guardian, custodian, or other relative, receive care and supervision at the facility at the same time.

(b) Not more than four (4) of the five (5) individuals in subsection (a)(1) may be less than six (6) years of age.

(c) The department may grant an exception to this section whenever the department determines that:

(1) the placement of siblings in the same foster family home is desirable;

(2) a foster child has an established, meaningful relationship with the foster parents; or

(3) it is otherwise in the foster child's best interests.

(d) An individual who receives foster care for older youth under IC 31-28-5.7-1 in a foster family home shall not be considered in determining whether the foster family home meets or exceeds the limit set forth in subsection (a)(1).

(e) If a foster family home does not meet the requirements under subsection (a) on July 1, 2011, any foster child placed in the home prior to July 1, 2011 may remain placed. However, a new placement of a child may not be made in violation of this section.

As added by P.L.145-2006, SEC.273. Amended by P.L.143-2008, SEC.9; P.L.162-2011, SEC.30.

IC 31-27-4-9

Licensing of applicants providing care and supervision to relatives

Sec. 9. (a) An applicant may apply for a foster family home license even if the applicant will be providing care and supervision under an order of a juvenile court to a niece, nephew, sibling, or grandchild.

(b) If an applicant described in subsection (a) otherwise qualifies for a foster family home license, the department may issue a foster family home license to the applicant.

As added by P.L.145-2006, SEC.273.

IC 31-27-4-10**Investigation of applicants**

Sec. 10. The department shall investigate a person seeking licensure to determine whether the person is in compliance with this article and the rules adopted under this article. The investigation shall be conducted at a reasonable time and in a reasonable manner in announced or unannounced visits. Activities may include onsite inspections, record reading, observation, and interviewing. The department may require that evidence of compliance with the rules be presented in a form and manner specified in the rules.

As added by P.L.145-2006, SEC.273.

IC 31-27-4-11**Issuance of license**

Sec. 11. The department shall issue a license to a person who meets all the license requirements when an investigation shows the applicant to be in compliance under this article.

As added by P.L.145-2006, SEC.273.

IC 31-27-4-12**Eligibility for waivers and variances**

Sec. 12. A foster family home may be eligible to receive a waiver or variance from the requirements of this chapter by complying with IC 31-27-2-8.

As added by P.L.145-2006, SEC.273.

IC 31-27-4-13**Denial of license; notice; administrative hearing upon written request**

Sec. 13. (a) The department shall deny a license when an applicant fails to meet the requirements for a license. The department shall deny a license to an applicant who has been convicted of any of the following felonies:

- (1) Murder (IC 35-42-1-1).
- (2) Causing suicide (IC 35-42-1-2).
- (3) Assisting suicide (IC 35-42-1-2.5).
- (4) Voluntary manslaughter (IC 35-42-1-3).
- (5) Reckless homicide (IC 35-42-1-5).
- (6) Battery (IC 35-42-2-1) within the past five (5) years.
- (7) Domestic battery (IC 35-42-2-1.3).
- (8) Aggravated battery (IC 35-42-2-1.5).
- (9) Kidnapping (IC 35-42-3-2).
- (10) Criminal confinement (IC 35-42-3-3) within the past five (5) years.
- (11) A felony sex offense under IC 35-42-4.
- (12) Carjacking (IC 35-42-5-2) within the past five (5) years.
- (13) Arson (IC 35-43-1-1) within the past five (5) years.
- (14) Incest (IC 35-46-1-3).
- (15) Neglect of a dependent (IC 35-46-1-4(a)(1) and IC 35-46-1-4(a)(2)).

- (16) Child selling (IC 35-46-1-4(d)).
 - (17) A felony involving a weapon under IC 35-47 or IC 35-47.5 within the past five (5) years.
 - (18) A felony relating to controlled substances under IC 35-48-4 within the past five (5) years.
 - (19) An offense relating to material or a performance that is harmful to minors or obscene under IC 35-49-3.
 - (20) A felony that is substantially equivalent to a felony listed in subdivisions (1) through (19) for which the conviction was entered in another state.
 - (b) The department may deny a license to an applicant who:
 - (1) has been convicted of a felony that is not listed in subsection (a); or
 - (2) has had a juvenile adjudication for an act listed in subsection (a) that, if committed by an adult, would be a felony.
 - (c) The department shall send written notice by certified mail that the application has been denied and give the reasons for the denial.
 - (d) An administrative hearing concerning the denial of a license shall be provided upon written request by the applicant. The request must be made not more than thirty (30) days after receiving the written notice under subsection (c).
 - (e) An administrative hearing shall be held not more than sixty (60) days after receiving a written request.
 - (f) An administrative hearing shall be held in accordance with IC 4-21.5-3.
 - (g) The department shall issue a decision not more than sixty (60) days after the conclusion of a hearing.
- As added by P.L.145-2006, SEC.273. Amended by P.L.138-2007, SEC.53; P.L.162-2011, SEC.31.*

IC 31-27-4-14

Delegation of investigations

Sec. 14. (a) The department may delegate the investigation of foster family homes to a licensed child placing agency. The child placing agency is responsible for completing a foster family home licensing study that shows substantial compliance with foster family home rules and is the basis of a recommendation for licensure to the department.

- (b) The department shall:
 - (1) issue the license; or
 - (2) notify the child placing agency if a license is not issued, giving the reasons for the denial.
 - (c) After licensure the child placing agency shall supervise and monitor the foster family home in relation to the rules for licensure and shall recommend subsequent licensing and enforcement actions.
- As added by P.L.145-2006, SEC.273.*

IC 31-27-4-15

Investigation of unlicensed premises

Sec. 15. The department shall investigate any premises that the

department has reason to believe are being used for child care without a license in circumstances where a license is required.

As added by P.L.145-2006, SEC.273.

IC 31-27-4-16

Duration of license; limitations; renewal

Sec. 16. (a) A license for a foster family home expires four (4) years after the date of issuance, unless the license is revoked, modified to a probationary 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 department.

(c) A foster family home shall have the foster family home's license available for inspection.

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

As added by P.L.145-2006, SEC.273. Amended by P.L.146-2006, SEC.31.

IC 31-27-4-17

Probationary status; duration; expiration; extension

Sec. 17. (a) The department may place a licensee on probationary status if the licensee is temporarily unable to comply with a rule and if:

- (1) the noncompliance does not present an immediate threat to the health and well-being of the children;
- (2) the licensee files a plan with the department to correct the areas of noncompliance within the probationary period; and
- (3) the department approves the plan.

(b) A probationary status period is for not more than six (6) months. However, the department may extend a probationary status period for one (1) additional period of six (6) months.

(c) At the expiration of a probationary status period, the department shall:

- (1) reactivate the license to the end of the original term of the license;
- (2) extend the probationary status period as permitted under subsection (b); or
- (3) revoke the license.

As added by P.L.145-2006, SEC.273. Amended by P.L.146-2006, SEC.32.

IC 31-27-4-18

Inspection of foster family homes

Sec. 18. The department may conduct an inspection of a foster family home for the sole purpose of inquiry into matters as stated in the rules, including those directly affecting the health, safety,

treatment, and general well-being of the children protected under this article.

As added by P.L.145-2006, SEC.273.

IC 31-27-4-19

Records of monitoring activities and inspections

Sec. 19. The department shall keep written records of the department's monitoring activities and onsite inspections.

As added by P.L.145-2006, SEC.273.

IC 31-27-4-20

Cooperation by licensees

Sec. 20. The licensee shall cooperate with the department in carrying out the activities required by sections 18 through 19 of this chapter, including permitting the department to conduct announced or unannounced inspections.

As added by P.L.145-2006, SEC.273.

IC 31-27-4-21

Records regarding children

Sec. 21. (a) A licensee shall keep records required by the department regarding each child in the control and care of the licensee and shall report to the department upon request the facts the department requires with reference to children.

(b) The department shall keep records regarding children and facts learned about children and the children's parents or relatives confidential.

(c) The following have access to records regarding children and facts learned about children:

- (1) A state agency involved in the licensing of the foster family home.
- (2) A legally mandated child protection agency.
- (3) A law enforcement agency.
- (4) An agency having the legal responsibility to care for a child placed at the foster family home.
- (5) The parent, guardian, or custodian of the child at the foster family home.
- (6) A citizen review panel established under IC 31-25-2-20.4.
- (7) The department of child services ombudsman established by IC 4-13-19-3.

As added by P.L.145-2006, SEC.273. Amended by P.L.138-2007, SEC.54; P.L.182-2009(ss), SEC.375.

IC 31-27-4-22

Notice of enforcement actions; informal meetings

Sec. 22. The department shall give a licensee thirty (30) days written notice by certified mail of an enforcement action. The licensee shall also be provided with the opportunity for an informal meeting with the department. The licensee must request the meeting not more than ten (10) working days after receipt of the certified

notice.

As added by P.L.145-2006, SEC.273.

IC 31-27-4-23

Administrative hearings

Sec. 23. (a) An administrative hearing concerning the decision of the department to impose a sanction under this chapter shall be provided upon a written request by the licensee. The request must be made not more than thirty (30) calendar days after the licensee receives notice under section 22 of this chapter. The written request must be made separately from an informal meeting request made under section 22 of this chapter.

(b) An administrative hearing shall be held not more than sixty (60) days after the department receives a written request under subsection (a).

As added by P.L.145-2006, SEC.273.

IC 31-27-4-24

Procedure for administrative hearings

Sec. 24. A hearing requested under section 23 of this chapter shall be held in accordance with IC 4-21.5-3.

As added by P.L.145-2006, SEC.273.

IC 31-27-4-25

Issuance of decisions

Sec. 25. The department shall issue a decision not more than sixty (60) days after the conclusion of a hearing.

As added by P.L.145-2006, SEC.273.

IC 31-27-4-26

Repealed

(Repealed by P.L.146-2006, SEC.60.)

IC 31-27-4-27

Repealed

(Repealed by P.L.146-2006, SEC.60.)

IC 31-27-4-28

Repealed

(Repealed by P.L.146-2006, SEC.60.)

IC 31-27-4-29

Cessation of operation following revocation of license

Sec. 29. A foster family home shall cease operation when the license of the foster family home is revoked.

As added by P.L.145-2006, SEC.273.

IC 31-27-4-30

Notice

Sec. 30. (a) After the license of a foster family home is revoked,

the department shall notify in writing each person responsible for each child in care, to ensure that the children are removed from the foster family home.

(b) The written notice shall be sent to the last known address of the person responsible for the child in care and must state that the license of the foster family home has been revoked.

As added by P.L.145-2006, SEC.273. Amended by P.L.146-2006, SEC.33.

IC 31-27-4-31

Judicial review

Sec. 31. A final decision of the department made after a hearing is subject to judicial review under IC 4-21.5-5.

As added by P.L.145-2006, SEC.273.

IC 31-27-4-32

Grounds for revocation of license; waiver

Sec. 32. (a) The following constitute sufficient grounds for revocation of a license:

(1) A determination by the department of child abuse or neglect by:

(A) the licensee;

(B) an employee or a volunteer of the licensee who has direct contact, on a regular and continuous basis, with children who are under the direct supervision of the licensee; or

(C) a person who is residing in the home of the licensee.

(2) A criminal conviction of the licensee for any of the following:

(A) A felony.

(B) A misdemeanor related to the health or safety of a child.

(C) A misdemeanor for operating a child care center or child care home without a license under IC 12-17.2-5.

(D) A misdemeanor for operating a foster family home without a license under this chapter (or IC 12-17.4-4 before its repeal).

(3) A determination by the department that the licensee made false statements in the licensee's application for licensure.

(4) A determination by the department that the licensee made false statements in the records required by the department.

(5) A determination by the department that:

(A) the licensee;

(B) an employee or a volunteer of the licensee who has direct contact, on a regular and continuous basis, with children who are under the direct supervision of the licensee; or

(C) a person residing in the licensee's residence;

previously operated a child care center or child care home without a license under IC 12-17.2-5 or a foster family home without a license under this chapter (or IC 12-17.4-4 before its

repeal).

(6) A juvenile adjudication of the licensee for an act listed in section 13(a) of this chapter that, if committed by an adult, would be a felony.

(b) A license may also be revoked if an individual who resides in the residence of the licensee or an employee or volunteer of the licensee who has direct contact on a regular and continuous basis with children who are under the direct supervision of the licensee has had any of the following:

(1) A conviction of a felony described in section 13(a) of this chapter.

(2) A conviction of any other felony or a misdemeanor relating to the health and safety of a child, unless the licensee is granted a waiver by the department to employ or assign the person as a volunteer in a position described in this subsection or to permit the individual to reside in the licensee's residence.

(3) A juvenile adjudication for an act listed in section 13(a) of this chapter that, if committed by an adult, would be a felony, unless the licensee is granted a waiver by the department to:

(A) employ or assign the individual as a volunteer in a position described in this subsection; or

(B) permit the individual to reside in the licensee's residence.

(c) In determining whether to grant a waiver under subsection (b), the department shall consider the following factors:

(1) The length of time that has passed since the disqualifying conviction.

(2) The severity, nature, and circumstances of the offense.

(3) Evidence of rehabilitation.

(4) The duties and qualifications required for the proposed employment positions or volunteer assignment.

(d) Notwithstanding subsection (b), if:

(1) a license could be revoked due to a criminal conviction of, or a determination of child abuse or neglect by, an employee or a volunteer of the licensee or an individual residing in the residence of the licensee; and

(2) the department determines that the employee or volunteer has been dismissed by the licensee within a reasonable time after the licensee became aware of the conviction or that the individual no longer resides in the licensee's residence;

the criminal conviction of, or determination of child abuse or neglect by, the former employee, former volunteer, or former household resident does not constitute a sufficient basis for the revocation of a license.

(e) The department may adopt rules to implement this section.

As added by P.L.145-2006, SEC.273. Amended by P.L.138-2007, SEC.55; P.L.162-2011, SEC.32.

IC 31-27-4-33

Compliance with rules; disciplinary sanctions; revocation of license

Sec. 33. (a) A licensee shall operate a foster family home in

compliance with the rules established under this article and is subject to the disciplinary sanctions under subsection (b) if the department finds that the licensee has violated this article or a rule adopted under this article.

(b) After complying with the procedural provisions in sections 22 through 25 of this chapter, the department may revoke the license when the department finds that a licensee has committed a violation under subsection (a). However, the department shall permanently revoke the license of a licensee who has been convicted of any of the felonies described in section 13(a) of this chapter. The department may permanently revoke the license of a person who has been convicted of a felony that is not described in section 13(a) of this chapter.

As added by P.L.145-2006, SEC.273. Amended by P.L.146-2006, SEC.34; P.L.162-2011, SEC.33.

IC 31-27-4-34

Investigation of unlicensed home reports; enforcement

Sec. 34. (a) The department shall investigate a report of an unlicensed foster family home and report the department's findings to the attorney general and to the county office and the prosecuting attorney in the county where the foster family home is located.

(b) The attorney general or the department may do the following:

- (1) Seek the issuance of a search warrant to assist in the investigation.
- (2) File an action for injunctive relief.
- (3) Seek in a civil action a civil penalty not to exceed one hundred dollars (\$100) a day for each day a foster family home is operating without a license required under this article.

(c) The civil penalties collected under this section shall be deposited in the department of child services child care fund established by IC 31-25-2-16.

As added by P.L.145-2006, SEC.273. Amended by P.L.1-2007, SEC.203.

IC 31-27-4-35

Notification of sexual contact or sex crime

Sec. 35. (a) A licensee must immediately contact the department if:

- (1) a foster child less than sixteen (16) years of age, while living in a foster home, engages in or is the victim of sexual contact (as defined in IC 25-1-9-3.5);
- (2) a foster child, while living in a foster home, is:
 - (A) charged with or adjudicated as having committed an act that would be a crime under IC 35-42-4 if committed by an adult;
 - (B) charged with or convicted of an offense under IC 35-42-4; or
 - (C) the victim of an offense under IC 35-42-4; or
- (3) the licensee learns that a foster child has, before placement

with the licensee, engaged in or been the victim of an act described in subdivision (1) or (2).

(b) The information provided to the department under subsection

(a) must include:

- (1) the name of the child;
- (2) the date of the occurrence of the act if it can be determined;
- (3) a description of the act;
- (4) the name of the responding law enforcement agency if a law enforcement agency is contacted; and
- (5) any other information the licensee determines is relevant.

(c) Notwithstanding any other law, the department shall provide information described in subsection (b)(1) through (b)(4), whether received from a licensee or another reliable source, to:

- (1) a prospective licensee before the placement of the foster child with that licensee; and
- (2) each licensee with whom the foster child has previously been placed.

(d) The notification requirements of subsection (c) apply to a foster child who has:

- (1) engaged in sexual contact (as defined in IC 25-1-9-3.5) if the foster child is less than sixteen (16) years of age;
- (2) been charged with or adjudicated as having committed an act that would be a crime under IC 35-42-4 if committed by an adult; or
- (3) been charged with or convicted of an offense under IC 35-42-4.

As added by P.L.145-2006, SEC.273.

IC 31-27-4-36

Violation of chapter

Sec. 36. A person who knowingly or intentionally violates this chapter commits a Class B misdemeanor.

As added by P.L.145-2006, SEC.273.

IC 31-27-5

Chapter 5. Regulation of Group Homes

IC 31-27-5-1

Group home operation; necessity for license; number of children and location of home

Sec. 1. (a) A person may not operate a group home without a license issued under this article.

(b) The state or a political subdivision of the state may not operate a group home without a license issued under this article.

(c) A person may not operate a group home if:

(1) the number of children maintained on the premises at any one (1) time is greater than the number authorized by the license; or

(2) the children are maintained in a building or place not designated by the license.

As added by P.L.145-2006, SEC.273.

IC 31-27-5-2

Conditions for issuance of license

Sec. 2. (a) A license may be issued only if the group home is in substantial compliance with food, health, safety, and sanitation standards as determined under rules adopted by the department under IC 31-27-2-4 or in accordance with a variance or waiver approved by the department under IC 31-27-2-8.

(b) A license may be issued only if the group home is in compliance with the fire and life safety rules as determined by the state fire marshal under rules adopted by the department under IC 31-27-2-4 or in accordance with a variance or waiver approved by the department under IC 31-27-2-8.

(c) The department may issue a waiver or variance regarding a determination by the state fire marshal or the department under subsections (a) and (b).

As added by P.L.145-2006, SEC.273.

IC 31-27-5-3

Group home plat or deed restrictions

Sec. 3. (a) This section applies to:

(1) a restriction;

(2) a reservation;

(3) a condition;

(4) an exception; or

(5) a covenant;

that is created after June 30, 1990, in a subdivision plat, deed, or other instrument of or pertaining to the transfer, sale, lease, or use of property.

(b) This section applies to a group home that houses:

(1) not more than ten (10) children; and

(2) only children who are judicially determined to be either:

(A) children in need of services under IC 31-34-1 (or

IC 31-6-4-3 or IC 31-6-4-3.1 before their repeal); or
(B) children who have committed a delinquent act under
IC 31-37-2-2, IC 31-37-2-3, or IC 31-37-2-5 (or
IC 31-6-4-1(a)(2), IC 31-6-4-1(a)(3), or IC 31-6-4-1(a)(5)
before their repeal).

(c) A restriction, a reservation, a condition, an exception, or a
covenant in a subdivision plat, deed, or other instrument of or
pertaining to the:

- (1) transfer;
- (2) sale;
- (3) lease; or
- (4) use;

of property that would permit the residential use of property but
prohibit the use of that property as a group home is, to the extent of
the prohibition, void for public policy reasons.

(d) The prohibition described in subsection (c) is void even if the
prohibition is based on any of the following grounds:

- (1) The group home is a business.
- (2) The persons residing in the group home are not related.
- (3) Any other reason.

As added by P.L.145-2006, SEC.273.

IC 31-27-5-4

Apply for licenses; criminal history checks

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) That the applicant has not been convicted of:
 - (A) a felony; or
 - (B) a misdemeanor relating to the health and safety of
children.
- (2) That the applicant has not 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) An employee or a volunteer of the applicant who has or will
have direct contact on a regular and continuing basis with a
child who is or will be placed in a facility operated by 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 an act listed in IC 31-27-4-13(a) 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) A criminal history check of a person described in subsection (d)(2) or (d)(3) must be completed on or before the date on which the subject of the check is employed or assigned as a volunteer. However, a fingerprint based criminal history background check under IC 31-9-2-22.5(1)(B) for a person described in subsection (d) must be completed not later than the conclusion of the first ninety (90) days of employment in or assignment of a volunteer to a position described in subsection (d). If a person described in this subsection has been the subject of a criminal history check (as described in IC 31-9-2-22.5) that was conducted not more than one (1) year before the date the license application is submitted to the department, a new criminal history check of that person is not required.

(i) An applicant or licensee may provisionally employ an individual or assign a volunteer described in subsection (d)(3) for whom a criminal history check is required during the period after the process of requesting fingerprint based criminal history background check information has been initiated by or on behalf of the applicant or licensee but before the determination is obtained by or communicated to the applicant or licensee. If the determination is not received within ninety (90) days after the effective date of hire or

volunteer assignment, the employee or volunteer relationship must be terminated or suspended until a determination is received. An employee or volunteer whose determination has not yet been received may not have direct contact with a child who is or will be placed at a facility operated by the applicant or licensee unless the direct contact occurs only in the presence of a volunteer or employee of the applicant or licensee who has been the subject of a completed and approved criminal history check. In determining whether to provisionally hire or assign as a volunteer an individual described in subsection (d)(3), the applicant or licensee shall consider the following:

- (1) The training time required by an employee or a volunteer.
- (2) The safety and security of the children under the supervision of the applicant or licensee.
- (3) The safety and security of the other staff and volunteers working under the supervision of the applicant or licensee.
- (4) The staffing concerns of the applicant or licensee.
- (5) Any other factor relating to the safety and security of the applicant's or licensee's operations.

(j) 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 background 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.

(k) 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.

As added by P.L.145-2006, SEC.273. Amended by P.L.138-2007, SEC.56; P.L.162-2011, SEC.34.

IC 31-27-5-5

Establishment of county group home; operation

Sec. 5. (a) A county may establish a child group home. The group home may be operated by:

- (1) the county; or
- (2) a public or private agency under contract with the county;

and must be operated under the rules adopted by the director under this article.

(b) This section does not affect the following:

- (1) IC 31-31-1-1 or IC 31-40, requiring the county fiscal body to appropriate sufficient money to pay for services ordered by the juvenile court.
- (2) IC 31-31-8, authorizing the juvenile court to establish detention and shelter care facilities.
- (3) IC 12-13-5 and IC 12-19-1, requiring the department and the county office to provide care and treatment for delinquent

children and children in need of services.
As added by P.L.145-2006, SEC.273.

IC 31-27-5-6

Grounds for denial of license applications; waiver

Sec. 6. (a) The following constitute sufficient grounds for a denial of a license application:

(1) A determination by the department of child abuse or neglect by:

(A) the applicant; or

(B) an employee or a volunteer of the applicant who has direct contact, on a regular and continuous basis, with children who are under the direct supervision of the applicant.

(2) A criminal conviction of the applicant, or the director or manager of a facility where children will be placed by the applicant, for any of the following:

(A) A felony.

(B) A misdemeanor related to the health and safety of a child.

(C) A misdemeanor for operating a child caring institution, foster family home, group home, or child placing agency without a license under this article (or IC 12-17.4 before its repeal).

(D) A misdemeanor for operating a child care center or child care home without a license under IC 12-17.2.

(3) A determination by the department that the applicant made false statements in the applicant's application for licensure.

(4) A determination by the department that the applicant made false statements in the records required by the department.

(5) A determination by the department that:

(A) the applicant; or

(B) an employee or a volunteer of the applicant who has direct contact, on a regular and continuous basis, with children who are under the direct supervision of the applicant;

previously operated a home or facility without a license required under any applicable provision of this article (or IC 12-17.4 before its repeal) or IC 12-17.2.

(6) A juvenile adjudication of the applicant for an act listed in IC 31-27-4-13(a) that, if committed by an adult, would be a felony.

(b) An application for a license may also be denied if an employee or volunteer of the applicant who has direct contact on a regular and continuous basis with children who are under the direct supervision of the applicant has had any of the following:

(1) A conviction of a felony described in IC 31-27-4-13(a).

(2) A conviction of any other felony or a misdemeanor relating to the health and safety of a child, unless the applicant is granted a waiver by the department to employ or assign the

person as a volunteer in a position described in this subsection.
(3) A juvenile adjudication for an act listed in IC 31-27-4-13(a) that, if committed by an adult, would be a felony, unless the applicant is granted a waiver by the department to employ or assign the person as a volunteer in a position described in this subsection.

(c) In determining whether to grant a waiver under subsection (b), the department shall consider the following factors:

- (1) The length of time that has passed since the disqualifying conviction.
- (2) The severity, nature, and circumstances of the offense.
- (3) Evidence of rehabilitation.
- (4) The duties and qualifications required for the proposed employment positions or volunteer assignment.

(d) Notwithstanding subsection (a) or (b), if:

- (1) a license application could be denied due to a criminal conviction of, or a determination of child abuse or neglect by, an employee or a volunteer of the applicant; and
- (2) the department determines that the employee or volunteer has been dismissed by the applicant;

the criminal conviction of, or determination of child abuse or neglect by, the former employee or former volunteer does not constitute a sufficient basis for the denial of a license application.

(e) The department may adopt rules to implement this section.

As added by P.L.145-2006, SEC.273. Amended by P.L.138-2007, SEC.57; P.L.162-2011, SEC.35.

IC 31-27-5-7

Incomplete applications

Sec. 7. The department may not act on an incomplete application. The department shall return an incomplete application with a notation concerning omissions. The return of an incomplete application is without prejudice.

As added by P.L.145-2006, SEC.273.

IC 31-27-5-8

Investigation of applicants

Sec. 8. The department shall investigate a person seeking licensure to determine whether the person is in compliance with this article and the rules adopted under this article. The investigation shall be conducted at a reasonable time and in a reasonable manner in announced or unannounced visits. Activities may include onsite inspections, record reading, observation, and interviewing. The department may require that evidence of compliance with the rules be presented in a form and manner specified in the rules.

As added by P.L.145-2006, SEC.273.

IC 31-27-5-9

Issuance of license

Sec. 9. The department shall issue a license to a person who meets

all of the license requirements when an investigation shows the applicant to be in compliance under this article.

As added by P.L.145-2006, SEC.273.

IC 31-27-5-10

Eligibility of waivers and variances

Sec. 10. A group home may be eligible to receive a waiver or variance from the requirements of this chapter by complying with IC 31-27-2-8.

As added by P.L.145-2006, SEC.273.

IC 31-27-5-11

Waiver of maximum group home stay

Sec. 11. (a) The department may grant a waiver of the sixty (60) day maximum stay for a child if the group home licensed as a shelter care facility applies for the waiver before the expiration of the sixty (60) day period.

(b) The group home shall document in the request for a waiver that the waiver is in the best interest of the child.

As added by P.L.145-2006, SEC.273.

IC 31-27-5-12

Denial of license

Sec. 12. (a) The department shall deny a license when an applicant fails to meet the requirements for a license.

(b) The department shall send the applicant written notice by certified mail that the application has been denied and give the reasons for the denial.

(c) An administrative hearing concerning the denial of a license shall be provided upon written request by the applicant. The request must be made not more than thirty (30) days after the applicant receives the written notice under subsection (b).

(d) An administrative hearing shall be held not more than sixty (60) days after the department receives a written request under subsection (c).

(e) An administrative hearing shall be held in accordance with IC 4-21.5-3.

(f) The department shall issue a decision not more than sixty (60) days after the conclusion of a hearing under this section.

As added by P.L.145-2006, SEC.273.

IC 31-27-5-13

Investigation of unlicensed premises

Sec. 13. The department shall investigate any premises that the department has reason to believe are being used for child care without a license in circumstances where a license is required.

As added by P.L.145-2006, SEC.273.

IC 31-27-5-14

Duration of license; limitations; renewal; public display

Sec. 14. (a) A license for a group home expires four (4) years after the date of issuance, unless the license is revoked, modified to a probationary 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 department.

(c) A current license shall be publicly displayed.

(d) If a licensee submits a timely application for renewal, the current license remains in effect until the department issues a license or denies the application.

As added by P.L.145-2006, SEC.273. Amended by P.L.146-2006, SEC.35.

IC 31-27-5-15

Probationary status; duration; expiration; extension

Sec. 15. (a) The department may place a licensee on probationary status if the licensee is temporarily unable to comply with a rule and if:

- (1) the noncompliance does not present an immediate threat to the health and well-being of the children in the care of the licensee;
- (2) the licensee files a plan with the department, the state department of health, or the state fire marshal to correct the areas of noncompliance within the probationary period; and
- (3) the department, the state department of health, or the state fire marshal approves the plan.

(b) A probationary status period is for not more than six (6) months. However, the department may extend a probationary status period for one (1) additional period of six (6) months.

(c) At the expiration of a probationary status period, the department shall:

- (1) reactivate the license to the end of the original term of the license;
- (2) extend the probationary status period as permitted in subsection (b); or
- (3) revoke the license.

As added by P.L.145-2006, SEC.273. Amended by P.L.146-2006, SEC.36.

IC 31-27-5-16

Inspections

Sec. 16. The department and the state fire marshal shall do the following:

- (1) Make annual onsite inspections.
- (2) Keep written records of the monitoring activities and inspections.

As added by P.L.145-2006, SEC.273.

IC 31-27-5-17

Cooperation by licensees

Sec. 17. A licensee shall cooperate with the department and the state fire marshal in carrying out the activities required by section 16 of this chapter, including permitting the department and the state fire marshal to conduct announced or unannounced inspections.

As added by P.L.145-2006, SEC.273.

IC 31-27-5-18

Records

Sec. 18. (a) A licensee shall keep records required by the department regarding each child in the control and care of the licensee and shall report to the department, upon request, the facts the department requires with reference to children.

(b) The department shall keep records regarding children and facts learned about children and the children's parents or relatives confidential.

(c) The following have access to records regarding children and facts learned about children:

- (1) A state agency involved in the licensing of the group home.
- (2) A legally mandated child protection agency.
- (3) A law enforcement agency.
- (4) An agency having the legal responsibility to care for a child placed at the group home.
- (5) The parent, guardian, or custodian of the child at the group home.
- (6) A citizen review panel established under IC 31-25-2-20.4.
- (7) The department of child services ombudsman established by IC 4-13-19-3.

As added by P.L.145-2006, SEC.273. Amended by P.L.138-2007, SEC.58; P.L.182-2009(ss), SEC.376.

IC 31-27-5-19

Notice of enforcement actions; informal meetings

Sec. 19. Except as provided in section 29 of this chapter, the department shall give a licensee thirty (30) days written notice by certified mail of an enforcement action. The licensee shall also be provided with the opportunity for an informal meeting with the department. The licensee must request the meeting not more than ten (10) working days after receipt of the certified notice.

As added by P.L.145-2006, SEC.273.

IC 31-27-5-20

Administrative hearings

Sec. 20. (a) An administrative hearing concerning the decision of the department to impose a sanction under this chapter shall be provided upon a written request by the licensee. The request must be made not more than thirty (30) days after the licensee receives notice under section 19 of this chapter. The written request must be made separately from an informal meeting request made under section 19

of this chapter.

(b) An administrative hearing shall be held not more than sixty (60) days after the department receives a written request under subsection (a).

As added by P.L.145-2006, SEC.273.

IC 31-27-5-21

Procedure for administrative hearings

Sec. 21. A hearing requested under section 20 of this chapter shall be held under IC 4-21.5-3.

As added by P.L.145-2006, SEC.273.

IC 31-27-5-22

Issuance of decisions

Sec. 22. The department shall issue a decision not more than sixty (60) days after the conclusion of a hearing under section 20 of the chapter.

As added by P.L.145-2006, SEC.273.

IC 31-27-5-23

Repealed

(Repealed by P.L.146-2006, SEC.60.)

IC 31-27-5-24

Repealed

(Repealed by P.L.146-2006, SEC.60.)

IC 31-27-5-25

Repealed

(Repealed by P.L.146-2006, SEC.60.)

IC 31-27-5-26

Cessation of operation upon revocation of license

Sec. 26. A group home shall cease operation when the license of the group home is revoked.

As added by P.L.145-2006, SEC.273.

IC 31-27-5-27

Notice

Sec. 27. (a) After the license of a group home is revoked, the department shall notify in writing each person responsible for each child in care to ensure that the children are removed from the group home.

(b) The written notice shall be sent to the last known address of the person responsible for the child in care and shall state that the license of the group home has been revoked.

As added by P.L.145-2006, SEC.273. Amended by P.L.146-2006, SEC.37.

IC 31-27-5-28

Judicial review

Sec. 28. A final decision of the department made after a hearing is subject to judicial review under IC 4-21.5-5.

As added by P.L.145-2006, SEC.273.

IC 31-27-5-29**Investigation of noncompliance; injunctions; corrective action plans; removal of children; informal meetings**

Sec. 29. (a) The department shall investigate a report of a licensed group home's noncompliance with this article and the rules adopted under this article if there is reasonable cause to believe that noncompliance with this article and rules adopted under this article creates an imminent danger of serious bodily injury to a child or an imminent danger to the health of a child. The department shall report its findings to the attorney general and to the county office and the prosecuting attorney in the county where the group home is located.

(b) The attorney general or the department may do the following:

(1) Seek the issuance of a search warrant to assist in the investigation.

(2) File an action for injunctive relief to stop the operation of a group home if there is reasonable cause to believe that the group home's noncompliance with this article and the rules adopted under this article creates an imminent danger of serious bodily injury to a child or an imminent danger to the health of a child.

(c) The department may require a plan of corrective action for emergency protection of children described in subsection (b).

(d) The department may provide for the removal of children from a group home described in subsection (b).

(e) An opportunity for an informal meeting with the department shall be available after injunctive relief is ordered under subsection (b)(2).

As added by P.L.145-2006, SEC.273.

IC 31-27-5-30**Expiration of injunctions for noncompliance**

Sec. 30. A court order granted under section 29(b)(2) of this chapter expires upon the later of the following:

(1) Sixty (60) days after the order is issued.

(2) When a final departmental decision is issued under sections 20 through 22 of this chapter if notice of an enforcement action is issued under section 19 of this chapter.

As added by P.L.145-2006, SEC.273.

IC 31-27-5-31**Grounds for revocation of licenses; waiver**

Sec. 31. (a) The following constitute sufficient grounds for revocation of a license:

(1) A determination by the department of child abuse or neglect by:

- (A) the licensee; or
- (B) an employee or a volunteer of the licensee who has direct contact, on a regular and continuous basis, with children who are under the direct supervision of the licensee.
- (2) A criminal conviction of the licensee, or the director or manager of a facility where children will be placed by the licensee, for any of the following:
 - (A) A felony.
 - (B) A misdemeanor related to the health or safety of a child.
 - (C) A misdemeanor for operating a child caring institution, foster family home, group home, or child placing agency without a license under this article (or IC 12-17.4 before its repeal).
 - (D) A misdemeanor for operating a child care center or child care home without a license under IC 12-17.2.
- (3) A determination by the department that the licensee made false statements in the licensee's application for licensure.
- (4) A determination by the department that the licensee made false statements in the records required by the department.
- (5) A determination by the department that:
 - (A) the licensee; or
 - (B) an employee or volunteer of the licensee who has direct contact, on a regular and continuous basis, with children who are under the direct supervision of the licensee; previously operated a home or facility without a license required under any applicable provision of this article (or IC 12-17.4 before its repeal) or IC 12-17.2.
- (6) A juvenile adjudication of the licensee for an act listed in IC 31-27-4-13(a) that, if committed by an adult, would be a felony.
- (b) A license may also be revoked if an employee or volunteer of the licensee who has direct contact on a regular and continuous basis with children who are under the direct supervision of the licensee has had any of the following:
 - (1) A conviction of a felony described in IC 31-27-4-13(a).
 - (2) A conviction of any other felony or a misdemeanor relating to the health and safety of a child, unless the licensee is granted a waiver by the department to employ or assign the person as a volunteer in a position described in this subsection.
 - (3) A juvenile adjudication for an act listed in IC 31-27-4-13(a) that, if committed by an adult, would be a felony, unless the licensee is granted a waiver by the department to employ or assign the person as a volunteer in a position described in this subsection.
- (c) In determining whether to grant a waiver under subsection (b), the department shall consider the following factors:
 - (1) The length of time that has passed since the disqualifying conviction.
 - (2) The severity, nature, and circumstances of the offense.
 - (3) Evidence of rehabilitation.

(4) The duties and qualifications required for the proposed employment positions or volunteer assignment.

(d) Notwithstanding subsection (a) or (b), if:

(1) a license could be revoked due to a criminal conviction of, or a determination of child abuse or neglect by, an employee or a volunteer of the licensee; and

(2) the department determines that the employee or volunteer has been dismissed by the licensee within a reasonable time after the licensee became aware of the conviction;

the criminal conviction of, or determination of child abuse or neglect by, the former employee or former volunteer does not constitute a sufficient basis for the revocation of a license.

(e) The department may adopt rules to implement this section.

As added by P.L.145-2006, SEC.273. Amended by P.L.138-2007, SEC.59; P.L.162-2011, SEC.36.

IC 31-27-5-32

Compliance with rules; disciplinary sanctions; revocation of license

Sec. 32. (a) A licensee shall operate a group home in compliance with the rules established under this article and is subject to the disciplinary sanctions under subsection (b) if the department finds that the licensee has violated this article or a rule adopted under this article.

(b) After complying with the procedural provisions in sections 19 through 22 of this chapter, the department may revoke the license when the department finds that a licensee has committed a violation under subsection (a).

As added by P.L.145-2006, SEC.273. Amended by P.L.146-2006, SEC.38.

IC 31-27-5-33

Investigation of unlicensed group homes; injunctions; civil penalties

Sec. 33. (a) The department shall investigate a report of an unlicensed group home and report the department's findings to the attorney general and to the county office and the prosecuting attorney in the county where the group home is located.

(b) The attorney general or the department may do the following:

(1) Seek the issuance of a search warrant to assist in the investigation.

(2) File an action for injunctive relief to stop the operation of a group home if there is reasonable cause to believe that the group home is operating without a license required under this article.

(3) Seek in a civil action a civil penalty not to exceed one hundred dollars (\$100) a day for each day a group home is operating without a license required under this article.

(c) An opportunity for an informal meeting with the department shall be available after injunctive relief is ordered under subsection (b)(2).

(d) The civil penalties collected under this section shall be deposited in the department of child services child care fund established by IC 31-25-2-16.

As added by P.L.145-2006, SEC.273. Amended by P.L.1-2007, SEC.204.

IC 31-27-5-34

Expiration of injunctions for unlicensed operation

Sec. 34. A court order granted under section 33(b)(2) of this chapter expires when the group home is issued a license.

As added by P.L.145-2006, SEC.273.

IC 31-27-5-35

Violations of chapter

Sec. 35. A person who knowingly or intentionally violates this chapter commits a Class B misdemeanor.

As added by P.L.145-2006, SEC.273.

IC 31-27-6

Chapter 6. Regulation of Child Placing Agencies

IC 31-27-6-1

Operation of a child placing agency

Sec. 1. (a) A person may not operate a child placing agency without a license issued under this article.

(b) The state or a political subdivision of the state may not operate a child placing agency without a license issued under this chapter.

(c) A child placing agency may not operate a foster family home if:

- (1) the number of children maintained on the premises at any one (1) time is greater than the number authorized by the license; or
- (2) the children are maintained in a building or place not designated by the license.

As added by P.L.145-2006, SEC.273.

IC 31-27-6-2

Apply for licenses; criminal history checks

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) That the applicant has not been convicted of:
 - (A) a felony; or
 - (B) a misdemeanor relating to the health and safety of children.
- (2) That the applicant has not 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) An employee or a volunteer of the applicant who has or will have direct contact on a regular and continuing basis with a child who is or will be placed in a facility operated by 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 an act listed in IC 31-27-4-13(a) 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) A criminal history background check of a person described in subsection (d)(2) or (d)(3) must be completed on or before the date on which the subject of the check is employed or assigned as a volunteer. However, a fingerprint based criminal history background check under IC 31-9-2-22.5(1)(B) for a person described in subsection (d)(3) must be completed not later than the conclusion of the first ninety (90) days of employment in or assignment of a volunteer to a position described in subsection (d)(3). If a person described in this subsection has been the subject of a criminal history background check (as described in IC 31-9-2-22.5) that was conducted not more than one (1) year before the date the license application is submitted to the department, a new criminal history check of that person is not required.

(i) An applicant or a licensee may provisionally employ an individual or assign a volunteer described in subsection (d)(3) for whom a criminal history background check is required during the period after the process of requesting fingerprint based criminal history background check information has been initiated by or on behalf of the applicant or licensee but before the determination is obtained by or communicated to the applicant or licensee. If the determination is not received within ninety (90) days after the effective date of hire or volunteer assignment, the employee or volunteer relationship must be terminated or suspended until a determination is received. An employee or a volunteer whose

determination has not yet been received may not have direct contact with a child who is or will be placed at a facility operated by the applicant or licensee unless the direct contact occurs only in the presence of a volunteer or an employee of the applicant or licensee who has been the subject of a completed and approved criminal history background check. In determining whether to provisionally hire or assign as a volunteer an individual described in subsection (d)(3), the applicant or licensee shall consider the following:

- (1) The training time required by an employee or a volunteer.
- (2) The safety and security of the children under the supervision of the applicant or licensee.
- (3) The safety and security of the other staff and volunteers working under the supervision of the applicant or licensee.
- (4) The staffing concerns of the applicant or licensee.
- (5) Any other factor relating to the safety and security of the applicant's or licensee's operations.

(j) 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 background 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.

(k) 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.

As added by P.L.145-2006, SEC.273. Amended by P.L.138-2007, SEC.60; P.L.162-2011, SEC.37.

IC 31-27-6-3

Grounds for denial of license applications; waiver

Sec. 3. (a) The following constitute sufficient grounds for denial of a license application:

- (1) A determination by the department of child abuse or neglect by:
 - (A) the applicant; or
 - (B) an employee or a volunteer of the applicant who has direct contact, on a regular and continuous basis, with children who are under the direct supervision of the applicant.
- (2) A criminal conviction of the applicant, or the director or manager of a facility where children will be placed by the licensee, for any of the following:
 - (A) A felony.
 - (B) A misdemeanor related to the health and safety of a child.
 - (C) A misdemeanor for operating a child caring institution, foster family home, group home, or child placing agency without a license under this article (or IC 12-17.4 before its

repeal).

(D) A misdemeanor for operating a child care center or child care home without a license under IC 12-17.2.

(3) A determination by the department that the applicant made false statements in the applicant's application for licensure.

(4) A determination by the department that the applicant made false statements in the records required by the department.

(5) A determination by the department that:

(A) the applicant; or

(B) an employee or a volunteer of the applicant who has direct contact, on a regular and continuous basis, with children who are under the direct supervision of the applicant;

previously operated a home or facility without a license required under any applicable provision of this article (or IC 12-17.4 before its repeal) or IC 12-17.2.

(6) A juvenile adjudication of the applicant for an act listed in IC 31-27-4-13(a) that, if committed by an adult, would be a felony.

(b) An application for a license may also be denied if an employee or volunteer of the applicant who has direct contact on a regular and continuous basis with children who are under the direct supervision of the applicant has had any of the following:

(1) A conviction of a felony described in IC 31-27-4-13(a).

(2) A conviction of any other felony or a misdemeanor relating to the health and safety of a child, unless the applicant is granted a waiver by the department to employ or assign the person as a volunteer in a position described in this subsection.

(3) A juvenile adjudication for an act listed in IC 31-27-4-13(a) that, if committed by an adult, would be a felony, unless the applicant is granted a waiver by the department to employ or assign the person as a volunteer in a position described in this subsection.

(c) In determining whether to grant a waiver under subsection (b), the department shall consider the following factors:

(1) The length of time that has passed since the disqualifying conviction.

(2) The severity, nature, and circumstances of the offense.

(3) Evidence of rehabilitation.

(4) The duties and qualifications required for the proposed employment positions or volunteer assignment.

(d) Notwithstanding subsection (a) or (b), if:

(1) a license application could be denied due to a criminal conviction of, or a determination of child abuse or neglect by, an employee or a volunteer of the applicant; and

(2) the department determines that the employee or volunteer has been dismissed by the applicant;

the criminal conviction of, or determination of child abuse or neglect by, the former employee or former volunteer does not constitute a sufficient basis for the denial of a license application.

(e) The department may adopt rules to implement this section.
As added by P.L.145-2006, SEC.273. Amended by P.L.138-2007, SEC.61; P.L.162-2011, SEC.38.

IC 31-27-6-4

Incomplete applications

Sec. 4. The department may not act on an incomplete application. The department shall return an incomplete application with a notation concerning omissions. The return of an incomplete application is without prejudice.

As added by P.L.145-2006, SEC.273.

IC 31-27-6-5

Investigation of applicants

Sec. 5. The department shall investigate a person seeking licensure to determine whether the person is in compliance with this article and the rules adopted under this article. The investigation shall be conducted at a reasonable time and in a reasonable manner in announced or unannounced visits. Activities may include onsite inspections, record reading, observation, and interviewing. The department may require that evidence of compliance with the rules adopted under this article be presented in a form and manner specified in the rules.

As added by P.L.145-2006, SEC.273.

IC 31-27-6-6

Issuance of license

Sec. 6. The department shall issue a license to a person who meets all of the license requirements when an investigation shows the applicant to be in compliance under this article.

As added by P.L.145-2006, SEC.273.

IC 31-27-6-7

Eligibility for waivers and variances

Sec. 7. A child placing agency may be eligible to receive a waiver or variance from the requirements of this chapter by complying with IC 31-27-2-8.

As added by P.L.145-2006, SEC.273.

IC 31-27-6-8

Denial of license

Sec. 8. (a) The department shall deny a license when an applicant fails to meet the requirements for a license.

(b) If the department denies an applicant a license under subsection (a), the department shall send the applicant written notice by certified mail that the application has been denied and give the reasons for the denial.

(c) An administrative hearing concerning the denial of a license shall be provided upon written request by the applicant. The request must be made not more than thirty (30) days after the applicant

receives the written notice under subsection (b).

(d) An administrative hearing shall be held not more than sixty (60) days after the department receives a written request under subsection (c).

(e) An administrative hearing shall be held in accordance with IC 4-21.5-3.

(f) The department shall issue a decision not more than sixty (60) days after the conclusion of a hearing under this section.

As added by P.L.145-2006, SEC.273.

IC 31-27-6-9

Investigation of unlicensed premises

Sec. 9. The department is responsible for investigating any premises that the department has reason to believe are being used for child care without a license in circumstances where a license is required.

As added by P.L.145-2006, SEC.273.

IC 31-27-6-10

Duration of license; limitations; renewal

Sec. 10. (a) A license for a child placing agency expires four (4) years after the date of issuance, unless the license is revoked, modified to a probationary 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 department.

(c) A child placing agency shall have the child placing agency's license available for inspection.

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

As added by P.L.145-2006, SEC.273. Amended by P.L.146-2006, SEC.39.

IC 31-27-6-11

Probationary status; duration; expiration; extension

Sec. 11. (a) The department may place a licensee on probationary status if the licensee is temporarily unable to comply with a rule and if:

(1) the noncompliance does not present an immediate threat to the health and well-being of the children in the care of the licensee;

(2) the licensee files a plan with the department to correct the areas of noncompliance within the probationary period; and

(3) the department approves the plan.

(b) A probationary status period is for not more than six (6) months. However, the department may extend a probationary status period for one (1) additional period of six (6) months.

(c) At the expiration of a probationary status period, the department shall:

- (1) reactivate the license to the end of the original term of the license;
- (2) extend the probationary status period as permitted in subsection (b); or
- (3) revoke the original license.

As added by P.L.145-2006, SEC.273. Amended by P.L.146-2006, SEC.40.

IC 31-27-6-12

Inspections of agencies

Sec. 12. The department may conduct an inspection of a child placing agency for the sole purpose of inquiry into matters as stated in the rules, including those directly affecting the health, safety, treatment, and general well-being of the children protected under this article.

As added by P.L.145-2006, SEC.273.

IC 31-27-6-13

Records of monitoring activities and inspections

Sec. 13. The department shall keep written records of the department's monitoring activities and onsite inspections.

As added by P.L.145-2006, SEC.273.

IC 31-27-6-14

Cooperation by licensees

Sec. 14. The licensee shall cooperate with the department in carrying out the activities required by sections 12 through 13 of this chapter, including permitting the department to conduct announced or unannounced inspections.

As added by P.L.145-2006, SEC.273.

IC 31-27-6-15

Records regarding children

Sec. 15. (a) A licensee shall keep records required by the department regarding each child in the control and care of the licensee and shall report to the department upon request the facts the department requires with reference to children.

(b) The department shall keep records regarding children and facts learned about children and the children's parents or relatives confidential.

(c) The following have access to records regarding children and facts learned about children:

- (1) A state agency involved in the licensing of the child placing agency.
- (2) A legally mandated child protection agency.
- (3) A law enforcement agency.
- (4) A citizen review panel established under IC 31-25-2-20.4.
- (5) The department of child services ombudsman established by

IC 4-13-19-3.

As added by P.L.145-2006, SEC.273. Amended by P.L.138-2007, SEC.62; P.L.182-2009(ss), SEC.377.

IC 31-27-6-16

Notice of enforcement actions

Sec. 16. The department shall give a licensee thirty (30) days written notice by certified mail of an enforcement action. The licensee shall also be provided with the opportunity for an informal meeting with the department. The licensee must request the meeting not more than ten (10) working days after receipt of the certified notice.

As added by P.L.145-2006, SEC.273.

IC 31-27-6-17

Administrative hearings

Sec. 17. (a) An administrative hearing concerning the decision of the department to impose a sanction under this chapter shall be provided upon a written request by the licensee. The request must be made not more than thirty (30) days after the licensee receives notice under section 16 of this chapter. The written request must be made separately from an informal meeting request made under section 16 of this chapter.

(b) An administrative hearing shall be held not more than sixty (60) days after the department receives a written request under subsection (a).

As added by P.L.145-2006, SEC.273.

IC 31-27-6-18

Procedure for administrative hearings

Sec. 18. A hearing requested under section 17 of this chapter shall be held in accordance with IC 4-21.5-3.

As added by P.L.145-2006, SEC.273.

IC 31-27-6-19

Issuance of decisions

Sec. 19. The department shall issue a decision not more than sixty (60) days after the conclusion of a hearing under section 17 of this chapter.

As added by P.L.145-2006, SEC.273.

IC 31-27-6-20

Repealed

(Repealed by P.L.146-2006, SEC.60.)

IC 31-27-6-21

Repealed

(Repealed by P.L.146-2006, SEC.60.)

IC 31-27-6-22

Repealed

(Repealed by P.L.146-2006, SEC.60.)

IC 31-27-6-23

Cessation of operation upon revocation of license

Sec. 23. A child placing agency shall cease operation when the license of the child placing agency is revoked.

As added by P.L.145-2006, SEC.273.

IC 31-27-6-24

Notice

Sec. 24. (a) After the license of a child placing agency is revoked, the department shall notify in writing each person responsible for each child in care to ensure that the children are removed from the child placing agency.

(b) The written notice shall be sent to the last known address of the person responsible for the child in care and must state that the license of the child placing agency has been revoked.

As added by P.L.145-2006, SEC.273. Amended by P.L.146-2006, SEC.41.

IC 31-27-6-25

Judicial review

Sec. 25. A final decision of the department made after a hearing is subject to judicial review under IC 4-21.5-5.

As added by P.L.145-2006, SEC.273.

IC 31-27-6-26

Investigation of noncompliance; injunctions; corrective action plans; informal meetings

Sec. 26. (a) The department shall investigate a report of a licensed child placing agency's noncompliance with this article and the rules adopted under this article if there is reasonable cause to believe that a licensee's noncompliance with this article and rules adopted under this article creates an imminent danger of serious bodily injury to a child or an imminent danger to the health of a child and report the department's findings to the attorney general and to the county office and the prosecuting attorney in the county where the child placing agency is located.

(b) The attorney general or the department may do the following:

(1) Seek the issuance of a search warrant to assist in the investigation.

(2) File an action for injunctive relief to stop the operation of a child placing agency if there is reasonable cause to believe that a licensee's noncompliance with this article and the rules adopted under this article creates an imminent danger of serious bodily injury to a child or an imminent danger to the health of a child.

(c) The department may require a plan of corrective action for emergency protection of the children described in subsection (b).

(d) An opportunity for an informal meeting with the department shall be available after injunctive relief is ordered under subsection (b)(2).

As added by P.L.145-2006, SEC.273.

IC 31-27-6-27

Expiration of injunctions for noncompliance

Sec. 27. A court order granted under section 26(b)(2) of this chapter expires upon the later of the following:

- (1) Sixty (60) days after the order is issued.
- (2) When a final department decision is issued under sections 16 through 19 of this chapter if notice of an enforcement action is issued under section 16 of this chapter.

As added by P.L.145-2006, SEC.273.

IC 31-27-6-28

Grounds for revocation of licenses; waiver

Sec. 28. (a) The following constitute sufficient grounds for revocation of a license:

- (1) A determination by the department of child abuse or neglect (as defined in IC 31-9-2-14) by:
 - (A) the licensee; or
 - (B) an employee or a volunteer of the licensee who has direct contact, on a regular and continuous basis, with children who are under the direct supervision of the licensee.
- (2) A criminal conviction of the licensee, or the director or manager of a facility where children will be placed by the licensee, for any of the following:
 - (A) A felony.
 - (B) A misdemeanor related to the health or safety of a child.
 - (C) A misdemeanor for operating a child caring institution, foster family home, group home, or child placing agency without a license under this article (or IC 12-17.4 before its repeal).
 - (D) A misdemeanor for operating a child care center or child care home without a license under IC 12-17.2.
- (3) A determination by the department that the licensee made false statements in the licensee's application for licensure.
- (4) A determination by the department that the licensee made false statements in the records required by the department.
- (5) A determination by the department that:
 - (A) the licensee; or
 - (B) an employee or a volunteer of the licensee who has direct contact, on a regular and continuous basis, with children who are under the direct supervision of the licensee; previously operated a home or facility without a license required under any applicable provision of this article (or IC 12-17.4 before its repeal) or IC 12-17.2.
- (6) A juvenile adjudication of a licensee for an act listed in IC 31-27-4-13(a) that, if committed by an adult, would be a

felony.

(b) A license may also be revoked if an employee or volunteer of the licensee who has direct contact on a regular and continuous basis with children who are under the direct supervision of the licensee has had any of the following:

- (1) A conviction of a felony described in IC 31-27-4-13(a).
- (2) A conviction of any other felony or a misdemeanor relating to the health and safety of a child, unless the licensee is granted a waiver by the department to employ or assign the person as a volunteer in a position described in this subsection.
- (3) A juvenile adjudication for an act listed in IC 31-27-4-13(a) that, if committed by an adult, would be a felony, unless the licensee is granted a waiver by the department to employ or assign the person as a volunteer in a position described in this subsection.

(c) In determining whether to grant a waiver under subsection (b), the department shall consider the following factors:

- (1) The length of time that has passed since the disqualifying conviction.
- (2) The severity, nature, and circumstances of the offense.
- (3) Evidence of rehabilitation.
- (4) The duties and qualifications required for the proposed employment positions or volunteer assignment.

(d) Notwithstanding subsection (a) or (b), if:

- (1) a license could be revoked due to a criminal conviction of, or a determination of child abuse or neglect by, an employee or a volunteer of the licensee; and
- (2) the department determines that the employee or volunteer has been dismissed by the licensee within a reasonable time after the licensee became aware of the conviction or determination;

the criminal conviction of, or determination of child abuse or neglect by, the former employee or former volunteer does not constitute a sufficient basis for the revocation of a license.

(e) The department may adopt rules to implement this section.

As added by P.L.145-2006, SEC.273. Amended by P.L.138-2007, SEC.63; P.L.162-2011, SEC.39.

IC 31-27-6-29

Compliance with rules; disciplinary sanctions; revocation of license

Sec. 29. (a) A licensee shall operate a child placing agency in compliance with the rules established under this article and is subject to the disciplinary sanctions under subsection (b) if the department finds that the licensee has violated this article or a rule adopted under this article.

(b) After complying with the procedural provisions in sections 16 through 19 of this chapter, the department may revoke the license when the department finds that a licensee has committed a violation under subsection (a).

As added by P.L.145-2006, SEC.273. Amended by P.L.146-2006,

SEC.42.

IC 31-27-6-30

Investigation of unlicensed operation; injunctions; civil penalties

Sec. 30. (a) The department shall investigate a report of an unlicensed child placing agency and report the department's findings to the attorney general and to the county office and the prosecuting attorney in the county where the child placing agency is located.

(b) The attorney general or the department may do the following:

(1) Seek the issuance of a search warrant to assist in the investigation.

(2) File an action for injunctive relief to stop the operation of a child placing agency if there is reasonable cause to believe that the child placing agency is operating without a license required under this article.

(3) Seek in a civil action a civil penalty not to exceed one hundred dollars (\$100) a day for each day a child placing agency is operating without a license required under this article.

(c) An opportunity for an informal meeting with the department shall be available after injunctive relief is ordered under subsection (b)(2).

(d) The civil penalties collected under this section shall be deposited in the department of child services child care fund, established by IC 31-25-2-16.

As added by P.L.145-2006, SEC.273. Amended by P.L.1-2007, SEC.205.

IC 31-27-6-31

Expiration of injunctions for unlicensed operation

Sec. 31. A court order granted under section 30(b)(2) of this chapter expires when the child placing agency is issued a license.

As added by P.L.145-2006, SEC.273.

IC 31-27-6-32

Violations of chapter

Sec. 32. A person who knowingly or intentionally violates this chapter commits a Class B misdemeanor.

As added by P.L.145-2006, SEC.273.