

HOUSE BILL No. 1398

DIGEST OF INTRODUCED BILL

Citations Affected: IC 12-17.2-4.

Synopsis: Child care centers. Provides that the results of a national criminal history background check of an individual conducted for purposes of the individual's presence on the premises of a provider's child care center apply for purposes of the individual's presence on the premises of any child care center operated by the provider. Allows a child care center to allow an individual to work, while supervised, at the child care center during the period after submission of requests for any required preemployment verification of the individual but before the child care center receives the results of the preemployment verification. Provides that a child care center may allow an employee of the child care center who: (1) is at least 18 years of age; and (2) has successfully completed all criminal background checks and educational requirements required for employment by a licensed child care center; to be the sole supervisor of a classroom or area for children of any age. Requires the office of the secretary of family and social services (office) to amend the office's rules to provide that, for the purposes of staffing child care centers: (1) "infant" means a child who is less than 12 months of age; and (2) "toddler" means a child who is at least 12 months of age but less than 24 months of age.

Effective: Upon passage.

Lindauer

January 11, 2024, read first time and referred to Committee on Family, Children and Human Affairs.



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

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2023 Regular Session of the General Assembly.

HOUSE BILL No. 1398

A BILL FOR AN ACT to amend the Indiana Code concerning human services.

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

1 SECTION 1. IC 12-17.2-4-3, AS AMENDED BY P.L.183-2021,
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 UPON PASSAGE]: Sec. 3. (a) An applicant must apply for a child care
4 center license on forms provided by the division.
5 (b) An applicant must submit the required information as part of the
6 application, including the following:
7 (1) If the county, city, or town in which the child care center is
8 located requires a business permit or license to operate a child
9 care center in the county, city, or town, proof that the applicant
10 has a valid business permit or license.
11 (2) If the county, city, or town in which the child care center is
12 located does not require a business permit or license described in
13 subdivision (1), a statement from the county, city, or town that a
14 business permit or license is not required.
15 (3) A current and valid electronic mail address for the applicant.
16 (c) The applicant must submit with the application a statement
17 attesting that the applicant:



- 1 (1) has not been convicted of:
 2 (A) a felony:
 3 (i) related to the health or safety of a child;
 4 (ii) that is a sex offense (as defined in IC 11-8-8-5.2);
 5 (iii) that is a dangerous felony; or
 6 (iv) that is not a felony otherwise described in items (i)
 7 through (iii), and less than ten (10) years have elapsed from
 8 the date the person was discharged from probation,
 9 imprisonment, or parole, whichever discharge date is latest;
 10 (B) a misdemeanor relating to the health or safety of children;
 11 (C) a misdemeanor for operating a child care center without a
 12 license under section 35 of this chapter, or of a substantially
 13 similar offense committed in another jurisdiction if the offense
 14 is directly or indirectly related to jeopardizing the health or
 15 safety of a child; or
 16 (D) a misdemeanor for operating a child care home without a
 17 license under IC 12-17.2-5-35, or of a substantially similar
 18 offense committed in another jurisdiction if the offense is
 19 directly or indirectly related to jeopardizing the health or
 20 safety of a child; and
 21 (2) has not been charged with:
 22 (A) a felony;
 23 (B) a misdemeanor relating to the health or safety of children;
 24 (C) a misdemeanor for operating a child care center without a
 25 license under section 35 of this chapter, or with a substantially
 26 similar offense in another jurisdiction if the offense is directly
 27 or indirectly related to jeopardizing the health or safety of a
 28 child; or
 29 (D) a misdemeanor for operating a child care home without a
 30 license under IC 12-17.2-5-35, or with a substantially similar
 31 offense in another jurisdiction if the offense is directly or
 32 indirectly related to jeopardizing the health or safety of a child;
 33 during the pendency of the application.
 34 (d) An applicant shall, at no expense to the state, submit:
 35 (1) the necessary information, forms, or consents; and
 36 (2) the applicant's fingerprints;
 37 for a national criminal history background check by the Federal Bureau
 38 of Investigation.
 39 (e) Subject to section 3.3 of this chapter, the applicant must, at no
 40 expense to the state, do the following:
 41 (1) Require an employee or volunteer of the applicant who may
 42 be present on the premises of the child care center during



1 operating hours of the child care center to submit fingerprints for
 2 a national criminal history background check by the Federal
 3 Bureau of Investigation.

4 (2) Report to the division any:

5 (A) police investigations;

6 (B) arrests; and

7 (C) criminal convictions;

8 of which the applicant is aware regarding the applicant or an
 9 employee or volunteer described in subdivision (1).

10 An applicant shall require an individual described in subdivision (1) to
 11 apply for a national criminal history background check before the
 12 individual is employed or allowed to volunteer and every three (3)
 13 years thereafter that the individual is continuously employed or allowed
 14 to volunteer.

15 **(f) The results of a national criminal history background check**
 16 **of an individual conducted under this section for purposes of the**
 17 **individual's presence on the premises of an applicant's child care**
 18 **center apply for purposes of the individual's presence on the**
 19 **premises of any child care center operated by the applicant.**

20 SECTION 2. IC 12-17.2-4-3.7 IS ADDED TO THE INDIANA
 21 CODE AS A NEW SECTION TO READ AS FOLLOWS
 22 [EFFECTIVE UPON PASSAGE]: **Sec. 3.7. (a) Subject to subsection**
 23 **(b), a child care center may employ an individual with respect to**
 24 **whom:**

25 **(1) requests have been submitted for any preemployment**
 26 **verification, including any:**

27 **(A) criminal history or other background check;**

28 **(B) alcohol or drug test; or**

29 **(C) test for a communicable disease;**

30 **required for the individual to be employed by the child care**
 31 **center; and**

32 **(2) the child care center has not received the results of the**
 33 **preemployment verification described in subdivision (1);**

34 **in any capacity in which the individual is otherwise qualified to be**
 35 **employed by the child care center.**

36 **(b) An individual employed by a child care center under**
 37 **subsection (a) must, at all times at which the individual is employed**
 38 **by the child care center during the period described in subsection**
 39 **(a), be supervised by an employee of the child care center who is**
 40 **fully qualified to be employed in the capacity in which the child**
 41 **care center allows the individual to work under subsection (a).**

42 SECTION 3. IC 12-17.2-4-4.3 IS ADDED TO THE INDIANA



1 CODE AS A NEW SECTION TO READ AS FOLLOWS
 2 [EFFECTIVE UPON PASSAGE]: **Sec. 4.3. A child care center may**
 3 **allow an employee of the child care center who:**

4 (1) **is at least eighteen (18) years of age; and**

5 (2) **has successfully completed all:**

6 (A) **criminal background checks; and**

7 (B) **educational requirements;**

8 **required for employment by a licensed child care center;**

9 **to be the sole supervisor of a classroom or area for children of any**
 10 **age.**

11 SECTION 4. [EFFECTIVE UPON PASSAGE] (a) **As used in this**
 12 **SECTION, "office" refers to the office of the secretary of family**
 13 **and social services established by IC 12-8-1.5-1.**

14 (b) **Not later than July 1, 2024, the office shall initiate the**
 15 **process of amending the office's rules in conformance with**
 16 **IC 12-17.2-4-3.7 and IC 12-17.2-4-4.3, both as added by this act.**

17 (c) **Not later than July 1, 2024, the office shall initiate the**
 18 **process of amending 470 IAC 3-4.7-1 to provide that:**

19 (1) **"infant" means a child who is less than twelve (12) months**
 20 **of age; and**

21 (2) **"toddler" means a child who is at least twelve (12) months**
 22 **of age but less than twenty-four (24) months of age.**

23 (d) **This SECTION expires January 1, 2025.**

24 SECTION 5. **An emergency is declared for this act.**

