

IC 12-17.2-6 Chapter 6. Regulation of Child Care Ministries

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IC 12-17.2-6-1 Licensure of ministries

Sec. 1. A child care ministry is exempt from licensure under this article if the child care ministry complies with this chapter. However, a child care ministry may apply for licensure. If a license is issued to the child care ministry, the child care ministry shall comply with state laws and rules governing licensure of the type of facility that the ministry operates.

As added by P.L.1-1993, SEC.141.

IC 12-17.2-6-2 Operation of unlicensed ministries; registration application and duration

Sec. 2. (a) An unlicensed child care ministry under section 1 of this chapter may not operate unless the child care ministry has registered with and met the requirements of the division and the division of fire and building safety. Registration application forms shall be provided by the division and the division of fire and building safety.

(b) Registration under this section expires two (2) years after the date of issuance unless revoked, modified to a probationary or suspended status, or voluntarily returned.

As added by P.L.1-1993, SEC.141. Amended by P.L.1-2006, SEC.193; P.L.53-2018, SEC.9.

IC 12-17.2-6-3 Registration of licensed ministries

Sec. 3. The operator of a licensed child care ministry under section 1 of this chapter shall register under section 2 of this chapter at least ninety (90) days before the expiration of the

child care ministry's license or ninety (90) days before surrendering the license.
As added by P.L.1-1993, SEC.141.

IC 12-17.2-6-4 Applicant inspection; periodic inspection of registered child care ministry

Sec. 4. (a) The division shall inspect a child care ministry for which a registration application is made under section 2 of this chapter to ensure that the child care ministry complies with the rules of the division adopted under IC 12-17.2-2-5(a).

(b) The division shall make an inspection of a registered child care ministry:

- (1) at least semiannually; and
- (2) additionally as determined necessary by the division, but not more than four (4) inspections per year per child care ministry;

to ensure that the child care ministry complies with the rules of the division adopted under IC 12-17.2-2-5(a).

As added by P.L.1-1993, SEC.141. Amended by P.L.16-2006, SEC.6; P.L.53-2018, SEC.10.

IC 12-17.2-6-5 Rules for fire prevention and inspection of unlicensed ministries

Sec. 5. (a) As used in this section, "primary use of the building" means the occupancy classification that is:

- (1) most closely related to the intended use of the building; and
- (2) determined by the rules of the fire prevention and building safety commission in effect at the time that the child care ministry is first registered.

(b) The state fire marshal shall inspect a child care ministry registered under section 2 of this chapter to ensure that the child care ministry complies with the requirements of subsection (c).

(c) Except as provided in the following, a registered child care ministry shall comply with all rules of the fire prevention and building safety commission applicable to the primary use of the building:

(1) A registered child care ministry with an occupant load of at least fifty (50) shall do either of the following:

(A) Install and maintain a fire alarm system in compliance with the rules of the fire prevention and building safety commission.

(B) Provide a notice on a form prescribed by the division of fire and building safety to the parents of each child who attends the ministry stating that the ministry does not have the same level of fire safety protection as a licensed child care center.

(2) Each registered child care ministry with an occupant load of less than fifty (50) shall do either of the following:

(A) Install and maintain in good operating condition at least one (1) battery operated smoke detector in each room and corridor used by the ministry.

(B) Provide a notice on a form prescribed by the division of fire and building safety to the parents of each child who attends the ministry stating that the ministry does not have the same level of fire safety protection as a licensed child care center.

(3) Each registered child care ministry shall comply with the rules of the fire prevention and building safety commission concerning fire drills.

For purposes of this subsection, occupant load is determined by dividing the total square footage of the area used by the child care ministry by thirty-five (35) and rounding any result that is not a whole number up to the next whole number.

(d) The state fire marshal shall make an inspection of a child care ministry registered under section 2 of this chapter at least annually.

(e) During an inspection, the state fire marshal shall inspect the structure in which the child care ministry is conducted for fire safety and life safety with respect to the structure's primary use.

As added by P.L.1-1993, SEC.141. Amended by P.L.159-1995, SEC.2; P.L.1-2006, SEC.194.

IC 12-17.2-6-6 Inspection notices for unlicensed ministries

Sec. 6. Upon the completion of the inspections required under this chapter, a notice signed by the inspectors from the division and the division of fire and building safety shall be issued to the operator of each child care ministry found to be in compliance. The notice shall be placed in a conspicuous place in the child care ministry, and must be in substantially the following form:

"THIS UNLICENSED REGISTERED CHILD CARE MINISTRY has been inspected and complies with state rules concerning health and sanitation in child care ministries.

DATE _____

SIGNATURE _____

DIVISION OF FAMILY RESOURCES

THIS UNLICENSED REGISTERED CHILD CARE MINISTRY has been inspected and complies with state law concerning fire safety and life safety.

DATE _____

SIGNATURE _____

DIVISION OF FIRE AND BUILDING SAFETY".

As added by P.L.1-1993, SEC.141. Amended by P.L.159-1995, SEC.3; P.L.1-2006, SEC.195; P.L.145-2006, SEC.104.

IC 12-17.2-6-7 Notice to parents and guardians by unlicensed ministries

Sec. 7. The operator of a child care ministry registered under section 2 of this chapter shall provide a notice to the parent or guardian of a child enrolled in the child care ministry. The notice must be signed by the parent or guardian when the child is enrolled in the child care ministry and must be kept on file at the child care ministry until two (2) years after the last day the child attends the child care ministry. This notice must be maintained by the child care ministry and made available to the division upon request. The notice must be in the following form:

"I understand that this child care ministry is not licensed under the laws of Indiana. However, I understand that this child care ministry must comply with the state rules concerning sanitation and fire and life safety for the primary use of the structure in which it is conducted. I understand that it is my responsibility to ensure that the nutritional and health needs of my child are met while my child is at the child care ministry.

SIGNATURE _____".

As added by P.L.1-1993, SEC.141.

IC 12-17.2-6-7.5 Required annual certification

Sec. 7.5. (a) At least one (1) adult individual who maintains annual certification in a course of cardiopulmonary resuscitation applicable to all age groups of children cared for by the child care ministry shall be present at all times when a child is in the care of a child care ministry.

(b) An individual who:

- (1) is employed; or
- (2) volunteers;

as a caregiver at a child care ministry shall maintain current certification in first aid applicable to all age groups of children cared for by the child care ministry.

As added by P.L.9-2020, SEC.5.

IC 12-17.2-6-8 Liability for injuries to children

Sec. 8. A child care ministry is not absolved from liability for injury to a child while the

child is at the child care ministry if the cause of the injury is negligence or intentional wrongdoing on the part of the child care ministry or an employee of the child care ministry.
As added by P.L.1-1993, SEC.141.

IC 12-17.2-6-9 Loss of exemption for violation of chapter

Sec. 9. A child care ministry is not exempt under section 1 of this chapter if the operator or an employee of the child care ministry violates this chapter.
As added by P.L.1-1993, SEC.141.

IC 12-17.2-6-10 Advertising requirements for exempt ministries

Sec. 10. A child care ministry that is exempt from licensing under this chapter must clearly state in all of its paid promotional advertising that the child care ministry is providing child care as an extension of the ministry's church or religious ministry. A child care ministry that is exempt from licensing under this chapter must be referred to in all of its paid promotional advertising as a child care ministry.
As added by P.L.1-1993, SEC.141.

IC 12-17.2-6-11 Immunization of children

Sec. 11. (a) The parent or guardian of a child shall, when the child is enrolled in a child care ministry, provide the child care ministry with proof that the child has received the required immunizations against the following:

- (1) Diphtheria.
- (2) Whooping cough.
- (3) Tetanus.
- (4) Measles.
- (5) Rubella.
- (6) Poliomyelitis.
- (7) Mumps.

(b) A child enrolled in a child care ministry may not be required to undergo an immunization required under this section if the parents object for religious reasons. The objection must be:

- (1) made in writing;
- (2) signed by the child's parent or guardian; and
- (3) delivered to the child care ministry.

(c) If a physician certifies that a particular immunization required by this section is or may be detrimental to the child's health, the requirements of this section for that particular immunization are inapplicable to that child until the immunization is found to be no longer detrimental to the child's health.

As added by P.L.1-1993, SEC.141.

IC 12-17.2-6-12 Registration fees of division

Sec. 12. (a) The division shall charge a child care ministry a fifty dollar (\$50) fee for processing a registration under section 2 of this chapter.

(b) The division shall deposit the fees collected under subsection (a) in the division of family resources child care fund established by IC 12-17.2-2-3.

As added by P.L.1-1993, SEC.141. Amended by P.L.145-2006, SEC.106.

IC 12-17.2-6-13 Registration fees of fire marshal

Sec. 13. (a) The state fire marshal shall charge a child care ministry a fifty dollar (\$50) fee for processing a registration under section 2 of this chapter.

(b) The state fire marshal shall deposit the fees collected under subsection (a) in the fire and building services fund established by IC 22-12-6-1.

As added by P.L.1-1993, SEC.141.

IC 12-17.2-6-14 National criminal history check for employees of child care ministry; reporting requirements; prohibition on employing certain persons

Sec. 14. (a) A child care ministry must do the following:

(1) Subject to subsection (c), require, at no expense to the state, an employee or volunteer who may be present on the premises of the child care ministry during operating hours of the child care ministry to submit fingerprints for a national criminal history background check by the Federal Bureau of Investigation.

(2) Report to the division any:

- (A) police investigations;
- (B) arrests; and
- (C) criminal convictions;

of which the operator or director of the child care ministry is aware regarding an employee or volunteer described in subdivision (1).

(3) Refrain from employing, or allowing to serve as a volunteer, an individual who may be present on the premises of the child care ministry during operating hours of the child care ministry and who:

(A) has been convicted of a felony:

- (i) related to the health or safety of a child;
- (ii) that is a sex offense (as defined in IC 11-8-8-5.2);
- (iii) that is a dangerous felony; or
- (iv) that is not a felony otherwise described in items (i) through (iii), and less than ten (10) years have elapsed from the date the person was discharged from probation, imprisonment, or parole, whichever discharge date is latest;

(B) has been convicted of a misdemeanor related to the health or safety of a child;

(C) has been convicted of a misdemeanor under IC 12-17.2-4-35 for operating a child care center without a license, or of a substantially similar offense committed in another jurisdiction if the offense is directly or indirectly related to jeopardizing the health or safety of a child;

(D) has been convicted of a misdemeanor under IC 12-17.2-5-35 for operating a child care home without a license, or of a substantially similar offense committed in another jurisdiction if the offense is directly or indirectly related to jeopardizing the health or safety of a child; or

(E) is a person against whom an allegation of child abuse or neglect has been substantiated under IC 31-33, or under a substantially similar provision in another jurisdiction.

(b) A child care ministry shall require an individual described in subsection (a)(1) to apply for a national criminal history background check before the individual is employed or allowed to volunteer and every three (3) years thereafter that the individual is continuously employed or allowed to volunteer.

(c) A child care ministry that is registered under this chapter on July 1, 2013, shall, at no expense to the state, meet the requirements under subsection (a)(1) not later than July 1, 2014.

As added by P.L.1-1993, SEC.141. Amended by P.L.136-1993, SEC.22 and P.L.61-1993, SEC.12; P.L.124-2007, SEC.7; P.L.287-2013, SEC.16; P.L.158-2013, SEC.179; P.L.168-2014, SEC.28; P.L.121-2020, SEC.10.

IC 12-17.2-6-14.1 Safe sleeping practices; violations; penalties

Sec. 14.1. (a) The operator of a child care ministry that cares for children who are less than twelve (12) months of age shall:

- (1) complete the training course provided or approved by the division under IC 12-17.2-2-1(10) concerning safe sleeping practices; and
- (2) ensure that all caregivers of children who are less than twelve (12) months of age

follow safe sleeping practices.

(b) If an operator of a child care ministry violates subsection (a), the division may do the following with respect to each violation determined during an inspection of the child care ministry:

(1) On the first inspection during which a violation is determined during a registration period, issue a formal warning letter stating the division's intent to take administrative action and impose a civil penalty for any future violation.

(2) On the second inspection during which a violation is determined during a registration period, impose a civil penalty of fifty dollars (\$50) for each violation determined during the inspection.

(3) On the third inspection during which a violation is determined during a registration period, impose a civil penalty of seventy-five dollars (\$75) for each violation determined during the inspection.

(4) On the fourth inspection during which a violation is determined during a registration period:

(A) suspend the child care ministry's registration for not more than six (6) months; and

(B) impose a civil penalty of one hundred dollars (\$100) for each violation determined during the inspection.

(5) On the fifth inspection during which a violation is determined during a registration period:

(A) suspend or revoke the child care ministry's registration for one (1) year; and

(B) impose a civil penalty of two hundred fifty dollars (\$250) for each violation determined during the inspection.

(c) The division shall send to the operator of a child care ministry written notice:

(1) of an action taken under subsection (b), specifying the reason for the action and amount of any monetary civil penalty; and

(2) that failure to pay any monetary civil penalty may result in revocation of the child care ministry's registration for not more than two (2) years.

(d) The division shall deposit all civil penalties collected under this section in the division of family resources child care fund established by IC 12-17.2-2-3.

(e) In addition to the actions described in subsection (b), the division may seek further disciplinary action provided for under this article, as determined by the director.

As added by P.L.53-2018, SEC.11.

IC 12-17.2-6-15 Unscheduled visits by parents and guardians

Sec. 15. Unscheduled visits by a custodial parent or guardian of a child shall be permitted at any time a child care ministry is in operation.

As added by P.L.1-1993, SEC.141.

IC 12-17.2-6-16 Application denial; causes

Sec. 16. (a) The following constitute sufficient grounds for denial of an application for registration under this chapter:

(1) A determination by the department of child services of child abuse or neglect (as defined in IC 31-9-2-14) by:

(A) the applicant;

(B) an employee of the applicant who may be present on the premises of the child care ministry during operating hours of the child care ministry; or

(C) a volunteer of the applicant who may be present on the premises of the child care ministry during operating hours of the child care ministry.

(2) A criminal conviction of the applicant, or an employee or volunteer of the applicant who may be present on the premises of the child care ministry during operating hours of the child care ministry, of any of the following:

- (A) A felony:
 - (i) related to the health or safety of a child;
 - (ii) that is a sex offense (as defined in IC 11-8-8-5.2);
 - (iii) that is a dangerous felony; or
 - (iv) that is not a felony otherwise described in items (i) through (iii), and less than ten (10) years have elapsed from the date the person was discharged from probation, imprisonment, or parole, whichever discharge date is latest.
 - (B) A misdemeanor related to the health or safety of a child.
 - (C) A misdemeanor for operating a child care ministry without a registration under this chapter, or a substantially similar offense in another jurisdiction if the offense is directly or indirectly related to jeopardizing the health or safety of a child.
 - (D) A misdemeanor for operating a child care center without a license under IC 12-17.2-4-35, or a substantially similar offense in another jurisdiction if the offense is directly or indirectly related to jeopardizing the health or safety of a child.
 - (E) A misdemeanor for operating a child care home without a license under IC 12-17.2-5-35, or a substantially similar offense in another jurisdiction if the offense is directly or indirectly related to jeopardizing the health or safety of a child.
 - (3) A determination by the division that the applicant made false statements in the applicant's application for registration.
 - (4) A determination by the division that the applicant made false statements in the records required by the division.
 - (5) A determination by the division that the applicant previously operated a:
 - (A) child care ministry without a registration under this chapter;
 - (B) child care center without a license under IC 12-17.2-4; or
 - (C) child care home without a license under IC 12-17.2-5.
 - (b) Notwithstanding subsection (a)(2), if:
 - (1) a registration application is denied due to a criminal conviction of an employee or a volunteer of the applicant; and
 - (2) the division determines that the employee or volunteer has been dismissed by the applicant;
- the criminal conviction of the former employee or former volunteer does not require denial of the registration application.

As added by P.L.53-2018, SEC.12. Amended by P.L.121-2020, SEC.11.

IC 12-17.2-6-17 Notice of application denial; hearing

- Sec. 17. (a) The division shall deny registration under this chapter if an applicant fails to meet the requirements for registration.
- (b) The division 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 registration must be provided upon written request by the applicant. The request must be made not more than thirty (30) calendar days after the applicant receives the written notice under subsection (b).
- (d) The administrative hearing must be scheduled not more than sixty (60) calendar days after the division receives the written request.
- (e) The administrative hearing must be held in accordance with IC 4-21.5-3.
- (f) The division shall issue a decision not more than sixty (60) calendar days after the conclusion of the hearing.

As added by P.L.53-2018, SEC.13.

IC 12-17.2-6-18 Incomplete application

Sec. 18. The division may not act on an incomplete application for registration under this chapter. The division shall return an incomplete registration application with a notation as to omissions. The return of an incomplete registration application is without prejudice.

As added by P.L.53-2018, SEC.14.

IC 12-17.2-6-19 Revocation of registration; causes

Sec. 19. (a) The following constitute sufficient grounds for revocation of a registration under this chapter:

(1) A determination by the department of child services of child abuse or neglect (as defined in IC 31-9-2-14) by:

(A) the operator of the child care ministry;

(B) an employee of the child care ministry who may be present on the premises of the child care ministry during operating hours of the child care ministry; or

(C) a volunteer of the child care ministry who may be present on the premises of the child care ministry during operating hours of the child care ministry.

(2) A criminal conviction of the operator of the child care ministry, or an employee or volunteer of the child care ministry who may be present on the premises of the child care ministry during operating hours of the child care ministry, of any of the following:

(A) A felony:

(i) related to the health or safety of a child;

(ii) that is a sex offense (as defined in IC 11-8-8-5.2);

(iii) that is a dangerous felony; or

(iv) that is not a felony otherwise described in items (i) through (iii), and less than ten (10) years have elapsed from the date the person was discharged from probation, imprisonment, or parole, whichever discharge date is latest.

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

(C) A misdemeanor for operating a child care ministry without a registration under this chapter, or a substantially similar offense in another jurisdiction if the offense is directly or indirectly related to jeopardizing the health or safety of a child.

(D) A misdemeanor for operating a child care center without a license under IC 12-17.2-4-35, or a substantially similar offense in another jurisdiction if the offense is directly or indirectly related to jeopardizing the health or safety of a child.

(E) A misdemeanor for operating a child care home without a license under IC 12-17.2-5-35, or a substantially similar offense in another jurisdiction if the offense is directly or indirectly related to jeopardizing the health or safety of a child.

(3) A determination by the division that the operator of the child care ministry made false statements in the child care ministry's registration application.

(4) A determination by the division that the operator of the child care ministry made false statements in the records required by the division.

(5) A determination by the division that the operator of the child care ministry previously operated a:

(A) child care ministry without a registration under this chapter;

(B) child care center without a license under IC 12-17.2-4; or

(C) child care home without a license under IC 12-17.2-5.

(b) Notwithstanding subsection (a)(2), if:

(1) a registration is revoked due to a criminal conviction of an employee or a volunteer of the child care ministry; and

(2) the division determines that the employee or volunteer has been dismissed by the child care ministry;

the criminal conviction of the former employee or former volunteer does not require revocation of the registration.

As added by P.L.53-2018, SEC.15. Amended by P.L.121-2020, SEC.12.

IC 12-17.2-6-20 Emergency or temporary order requiring cessation of operation

Sec. 20. (a) The division shall adopt rules under IC 4-22-2 to establish a list of violations

of this article that would pose an immediate threat to the life or well-being of a child in the care of a child care ministry.

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

(1) issue an emergency or other temporary order under IC 4-21.5-4 requiring the operator to immediately cease operation of the child care ministry; and

(2) contact the parent or guardian of each child enrolled in the child care ministry to inform the parent or guardian:

(A) that the division has issued an order to require the operator to cease operation of the child care ministry; and

(B) of the reason for the order to cease operation;

pending the outcome of proceedings conducted under sections 22 through 25 of this chapter.

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

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

As added by P.L.53-2018, SEC.16.

IC 12-17.2-6-21 Enforcement actions

Sec. 21. (a) The operator of a child care ministry:

(1) shall operate the child care ministry in compliance with the rules established under this article; and

(2) is subject to the disciplinary actions under subsection (b) if the division finds that the operator of the child care ministry has violated this article.

(b) If the division finds that the operator of a child care ministry has committed a violation described in subsection (a), the division may, after complying with the procedural provisions of sections 22 through 25 of this chapter:

(1) suspend the child care ministry's registration for not more than six (6) months; or

(2) revoke the child care ministry's registration.

As added by P.L.53-2018, SEC.17.

IC 12-17.2-6-22 Notice of enforcement action

Sec. 22. Except as provided in section 20 of this chapter, the division shall give the operator of a child care ministry thirty (30) calendar days written notice by certified mail of an enforcement action. The operator of the child care ministry must also be provided with the opportunity for an informal meeting with the division. The operator of the child care ministry must request the informal meeting not more than ten (10) working days after receipt of the written notice.

As added by P.L.53-2018, SEC.18.

IC 12-17.2-6-23 Hearing

Sec. 23. (a) An administrative hearing concerning the decision of the division to impose a sanction under this chapter must be provided upon a written request by the child care ministry. The request must be made not more than thirty (30) calendar days after the child care ministry receives notice under section 20 or 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 requested under subsection (a) must be held not more than sixty (60) calendar days after the division receives the written request.

As added by P.L.53-2018, SEC.19.

IC 12-17.2-6-24 Hearing procedure

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

As added by P.L.53-2018, SEC.20.

IC 12-17.2-6-25 Issuance of enforcement decision

Sec. 25. The division shall issue a decision not more than sixty (60) calendar days after the conclusion of a hearing held under section 23 of this chapter.

As added by P.L.53-2018, SEC.21.

IC 12-17.2-6-26 Suspension of registration; cessation of operation

Sec. 26. If the registration of a child care ministry under this chapter is suspended, the child care ministry shall cease operation and may not display the registration.

As added by P.L.53-2018, SEC.22.

IC 12-17.2-6-27 Reinstatement of suspended registration; corrective action

Sec. 27. To reinstate a suspended registration under this chapter the following must occur:

- (1) The operator of the child care ministry must, not more than thirty (30) days after receiving the notice of the suspension under section 22 of this chapter, submit a plan of corrective action to the division for approval.
- (2) The plan of corrective action must outline the steps and timetable for immediate correction of the violations that caused the division to suspend the registration.
- (3) The plan of corrective action must be approved by the division.

As added by P.L.53-2018, SEC.23.

IC 12-17.2-6-28 Actions following suspension of registration

Sec. 28. Following the suspension of a registration under this chapter, the division shall do one (1) of the following:

- (1) Reinstatement the registration for the term of the original registration.
- (2) Revoke the registration.
- (3) Issue a new registration.
- (4) Deny a reapplication for registration.

As added by P.L.53-2018, SEC.24.

IC 12-17.2-6-29 Revocation of registration; cessation of operation

Sec. 29. If the registration of a child care ministry under this chapter is revoked, the child care ministry shall cease operation.

As added by P.L.53-2018, SEC.25.

IC 12-17.2-6-30 Notice of suspension or revocation

Sec. 30. (a) After the registration of a child care ministry under this chapter is revoked or suspended, the division shall:

- (1) publish notice under IC 5-3-1; and
- (2) send written notice to each person responsible for a child in care;

of the revocation or suspension.

(b) The written notice sent under subsection (a) must:

- (1) be sent to the last known address of the person responsible for the child in care; and
- (2) state that the registration of the child care ministry has been revoked or suspended.

As added by P.L.53-2018, SEC.26.

IC 12-17.2-6-31 Judicial review

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

As added by P.L.53-2018, SEC.27.

IC 12-17.2-6-32 Class B misdemeanor

Sec. 32. A person who knowingly or intentionally violates this chapter commits a Class B misdemeanor.
As added by P.L. 53-2018, SEC.28.