

STATE OF OKLAHOMA

1st Session of the 44th Legislature (1993)

HOUSE BILL NO. 1491

By: Monson

AS INTRODUCED

An Act relating to children; amending 10 O.S. 1991, Sections 402, as amended by Section 1, Chapter 228, O.S.L. 1992, and 410 (10 O.S. Supp. 1992, Section 402), which relate to child care facilities; modifying terms; removing certain penalties; authorizing administrative penalties; providing for certain determinations; specifying certain limits; authorizing in lieu of fine; authorizing certain orders; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 10 O.S. 1991, Section 402, as amended by Section 1, Chapter 228, O.S.L. 1992 (10 O.S. Supp. 1992, Section 402), is amended to read as follows:

Section 402. As used in this act:

1. "Child" or "minor" means any person who has not attained the age of eighteen (18) ~~;~~;

2. "Child care facility" means any public or private institution, child placing agency, foster family home, group home, day care center, or family day care home, providing either full-time or part-time care for children away from their own homes, and which

is owned or controlled by a political subdivision, a corporation, an unincorporated organization or association, or individual.;

3. "Child placing agency" means a child welfare agency licensed to place children in foster family homes, group homes or adoptive homes.;

4. "Full-time care" means continuous care given to a child beyond a minimum period of twenty-four (24) hours.;

5. "Foster family home" means a family home other than the parent, stepparent, grandparent, brother, sister, uncle, or aunt, who provides full-time care for five or less children.;

6. "Group homes" means homes providing full-time care for more than five children.;

7. "Day care" means the provision of care and supervision of a child who resides in its own home or with relatives but is in the care of another person for part of the day who is conducting a family day care home or persons conducting a day care center.;

8. "Family day care home" means a licensed or approved family home which provides care and protection for seven or fewer children for part of the twenty-four-hour day. The term "day care home" shall not include informal arrangements which parents make independently with neighbors, friends, and others, or caretakers in the child's own home, ~~and shall not include nursery schools, kindergartens, or other facilities of which the purpose is primarily educational, recreational, or medical treatment.~~;

9. "Day care center" means a licensed or approved facility which provides care and protection of eight or more children for a part of the twenty-four-hour day. The term "day care center" shall not include informal arrangements which parents make independently with neighbors, friends, and others, or caretakers in the child's own home, ~~and shall not include nursery schools, kindergartens, or other facilities of which the purpose is primarily educational, recreational, or medical treatment.~~;

10. "Department" means the Department of Human Services ~~;~~i

11. "Commission" means the Oklahoma Public Welfare Commission, the policy-making and general supervisory body of the Department ~~;~~i and

12. "Division" means the division of the Department of Human Services of the State of Oklahoma assigned responsibilities pursuant to the provisions of the Oklahoma Child Care Facilities Licensing Act.

SECTION 2. AMENDATORY 10 O.S. 1991, Section 410, is amended to read as follows:

Section 410. A. Any person or agent, representative, or officer of any child care facility who ~~violates any of the provisions of this act shall, upon conviction, be deemed guilty of a misdemeanor and punished in accordance with the provisions of 21 O.S. 1961, Section 10. Whenever any agent, representative, or officer of any child care facility shall be convicted under authority of this act, such conviction shall be sufficient ground for the revocation of the license of said licensee~~ has been determined by the Department of Human Services to have violated any provision of the Oklahoma Child Care Facilities Licensing Act or any rule, regulation, or order issued pursuant to the provisions of the Oklahoma Child Care Facilities Licensing Act may be liable for an administrative penalty of not more than One Hundred Dollars (\$100.00) for each day that said violation continues. The maximum administrative penalty shall not exceed Ten Thousand Dollars (\$10,000.00) for any related series of violations.

B. The amount of the penalty shall be assessed by the Department pursuant to the provisions of subsection A of this section, after notice and hearing. In determining the amount of the penalty, the Department shall include but not be limited to consideration of the nature, circumstances, and gravity of the violation and, with respect to the person found to have committed

the violation, the degree of culpability, the effect on ability of the person to continue to do business, and any show of good faith in attempting to achieve compliance with the provisions of the Oklahoma Child Care Facilities Licensing Act.

C. Any license holder may elect to surrender his license in lieu of said fine but shall be forever barred from obtaining a reissuance of said license.

D. In addition to or in lieu of a fine as provided in this section, the Department may issue an administrative order prohibiting a child care facility which has a history of incomplete or partial compliance with the provisions of the Oklahoma Child Care Facilities Licensing Act or which has a history of failure to fully implement a plan of correction in a timely manner from admitting new or additional residents to the child care facility.

SECTION 3. This act shall become effective September 1, 1993.

44-1-5885

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