STATE OF OKLAHOMA

1st Session of the 48th Legislature (2001)

COMMITTEE SUBSTITUTE
FOR
SENATE BILL 39 By: Cain of the Senate

and

Gilbert of the House

COMMITTEE SUBSTITUTE

An Act relating to children; amending 10 O.S. 1991, Sections 401, as last amended by Section 1, Chapter 122, O.S.L. 1993, 402, as last amended by Section 1, Chapter 233, O.S.L. 1999, 403, as last amended by Section 6, Chapter 385, O.S.L. 2000, 404, as amended by Section 7, Chapter 385, O.S.L. 2000, 404.1, as last amended by Section 1, Chapter 177, O.S.L. 2000, 405, as last amended by Section 1, Chapter 130, O.S.L. 1999, 406, as last amended by Section 2, Chapter 130, O.S.L. 1999, 407, as last amended by Section 3, Chapter 130, O.S.L. 1999, 408, as last amended by Section 4, Chapter 130, O.S.L. 1999, 410, 412 and 413 (10 O.S. Supp. 2000, Sections 401, 402, 403, 404, 404.1, 405, 406, 407 and 408), which relate to the Oklahoma Child Care Facilities Licensing Act; expanding purpose and policy; clarifying language; expanding definitions and exemptions; requiring notice; eliminating provisions for nonrenewal of a license and providing for denial of application; clarifying language relating to emergency orders; requiring written request for emergency order; deleting obsolete reference; inserting gender neutral language; and providing an effective date.

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

SECTION 1. AMENDATORY 10 O.S. 1991, Section 401, as amended by Section 1, Chapter 122, O.S.L. 1993 (10 O.S. Supp. 2000, Section 401), is amended to read as follows:

Section 401. A. Sections 401 through 410 of this title shall be known and may be cited as the "Oklahoma Child Care Facilities Licensing Act".

B. It is the declared purpose and policy of this act, same to be known as the "Oklahoma Child Care Facilities Licensing Act," to

ensure maintenance of minimum standards for the care and protection of children away from their own homes, to encourage and assist the child care facility toward maximum standards, and to work for the development of sufficient and adequate services for child care through joint work of public, private and voluntary agencies. Whenever possible, child care facilities should help to preserve and restore family life for children.

C. In order to provide care for children in child care facilities, a license shall be obtained from the Department of Human Services, which is issued on the basis of meeting minimum standards which are essential for the health and welfare of the child or children placed for care with such agencies and individuals.

SECTION 2. AMENDATORY 10 O.S. 1991, Section 402, as last amended by Section 1, Chapter 233, O.S.L. 1999 (10 O.S. Supp. 2000, Section 402), is amended to read as follows:

Section 402. As used in the Oklahoma Child Care Facilities Licensing Act:

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

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

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 the private residence of a family which provides foster care services to a child, and includes a

specialized foster home, a therapeutic foster family home, or a kinship care home;

6. "Foster parent eligibility assessment" includes a criminal background investigation, including, but not limited to, a national criminal history records search based upon the submission of fingerprints, a home assessment, and any other assessment required by the Department of Human Services, the Department of Juvenile Justice, or any child-placing agency pursuant to the provisions of the Oklahoma Foster Care and Out-of-Home Placement Act. A foster parent eligibility assessment shall be similar to the procedures used by the Department of Public Safety for determining suitability of an individual for employment as a highway patrol officer;

7. "Group home" means a home providing full-time care and community-based services for more than five, but fewer than thirteen children;

8. "Family child care home" means a family home which provides care and supervision for seven or fewer children for part of the twenty-four-hour day. The term "family child care home" shall not include informal arrangements which parents make independently with neighbors, friends, and others, or with caretakers in the child's own home;

9. “Large family child care home” means a residential family home which provides care and supervision for eight to twelve children for part of the twenty-four-hour day;

10. "Child care center" means a facility which provides care and supervision for children and which operates for more than thirty (30) hours per week. The term "child care center" shall not include informal arrangements which parents make independently with neighbors, friends, and others, or with caretakers in the child's own home;

11. "Part-day child care program" means a facility that provides care and supervision for children and that operates for more than fifteen (15) and up to thirty (30) hours per week;

12. "Residential child care facility" means a twenty-four-hour residential facility where children live together with or are supervised by adults who are not their parents or relatives;

13. "Department" means the Department of Human Services;

14. "Commission" means the Commission for Human Services, the policy-making and general supervisory body of the Department; and

~~14.~~ 15. "Division" means the ~~division of~~ section within the Department ~~of Human Services of the State of Oklahoma~~ that is assigned responsibilities pursuant to the provisions of the Oklahoma Child Care Facilities Licensing Act.

SECTION 3. AMENDATORY 10 O.S. 1991, Section 403, as last amended by Section 6, Chapter 385, O.S.L. 2000 (10 O.S. Supp. 2000, Section 403), is amended to read as follows:

Section 403. A. The provisions of the Oklahoma Child Care Facilities Licensing Act shall not apply to:

1. Care provided in a child's own home or by relatives;

2. Informal arrangements which parents make with friends or neighbors for the occasional care of their children;

3. Programs in which school-aged children are participating in home-schooling;

4. Programs operated during typical school hours by a public school district;

5. Programs operated during typical school hours by a private school that offers elementary education in grades kindergarten through third grade;

6. Summer youth camps for children at least five (5) years of age that are accredited by ~~the American Camping Association or other~~ a national standard-setting agency or church camp accreditation program;

7. Programs in which children attend on a drop-in basis and parents are on the premises and readily accessible;

8. A program of specialized activity or instruction for children that is not designed or intended for child care purposes including, but not limited to, scouts, 4-H clubs and summer resident youth camps, and single-activity programs such as academics, athletics, gymnastics, hobbies, art, music, dance and craft instruction;

9. Nursery schools, kindergartens or other facilities the purposes of which are primarily educational, recreational or medical, and that operate part-day child care programs which provide care and supervision for eight (8) or more children for fifteen (15) or fewer hours per week;

10. Facilities whose primary purpose is medical treatment;

11. Boarding schools that have education as their primary purpose and that are recognized as accredited by the State Board of Education. To be exempt, such programs shall:

a. have classroom facilities that are not used for residential living,

b. not have been granted nor have assumed legal custody of any child attending the facility, and

c. adhere to standard educational holiday and seasonal recess periods to permit students reasonable opportunities to return to their primary places of residence with parents or legal guardians.

For purposes of this Act, the Oklahoma School of Science and Mathematics shall be considered a boarding school and as such shall be exempt from licensure;

12. Day treatment programs and maternity homes operated by a licensed hospital; or

~~12.~~ 13. Juvenile facilities certified by the Office of Juvenile Affairs or certified by any other state agency authorized by law to license such facilities.

B. The provisions of the Oklahoma Child Care Facilities Licensing Act shall be equally incumbent upon all private and public child care facilities.

SECTION 4. AMENDATORY 10 O.S. 1991, Section 404, as amended by Section 7, Chapter 385, O.S.L. 2000 (10 O.S. Supp. 2000, Section 404), is amended to read as follows:

Section 404. A. The Department of Human Services shall appoint advisory committees of representatives of child care facilities and others to prepare minimum requirements and desirable standards for promulgation by the ~~Department~~ Commission for Human Services. A majority of any committee appointed to prepare requirements and standards for child care facilities shall be representatives of child care facilities. These standards shall include, but not be limited to, requirements for:

1. A constructive program and services to meet the needs of each child and family;

2. Staff of good moral character and ability for child care;

3. Adequate and safe housing, sanitation, and equipment;

4. Good health care;

5. Full educational and religious opportunities;

6. Good community relationships;

7. Essential records and administrative methods; and

8. Sufficient funds for sound operation.

B. The ~~Department~~ Commission shall promulgate rules establishing minimum requirements and desirable standards as may be deemed necessary or advisable to carry out the provisions of the Oklahoma Child Care Facilities Licensing Act.

C. Such rules shall not be promulgated until after consultation with the State Department of Health, the Department of Education,

the Oklahoma State Bureau of Investigation, the State Fire Marshal, and any other agency deemed necessary by the ~~Department~~ Commission. Not less than sixty (60) days' notice, by ~~ordinary~~ regular mail, shall be given to all current licensees before any changes are made in such rules.

D. In order to improve the standards of child care, the Department shall also advise and cooperate with the governing bodies and staffs of child care facilities and assist the staffs thereof through advice of progressive methods and procedures and suggestions for the improvement of services.

E. The Department may participate in federal programs for day care services, and enter into agreements or plans on behalf of the state for such purpose, in accordance with federal laws and regulations.

F. Foster family homes, group homes, and day care homes ~~which~~ that have been selected ~~by~~ and ~~which~~ are supervised by a licensed child care facility, and ~~which~~ that meet the standards established for licensing pursuant to the provisions of the Oklahoma Child Care Facilities Licensing Act, may be maintained and operated on the basis of permits issued by such child care facility.

SECTION 5. AMENDATORY 10 O.S. 1991, Section 404.1, as last amended by Section 1, Chapter 177, O.S.L. 2000 (10 O.S. Supp. 2000, Section 404.1), is amended to read as follows:

Section 404.1 A. 1. Except as otherwise provided by subsection B of this section, the Department of Human Services shall require a criminal history records search, conducted by the Oklahoma State Bureau of Investigation, for any person making application to establish or operate a child care facility prior to the issuance of a license to operate such facility.

2. a. Every child care facility shall arrange, prior to employment, for a criminal history records search to be conducted by the Oklahoma State Bureau of

Investigation for any person to be employed by the child care facility.

b. In addition, any child care facility, licensed or approved pursuant to the Oklahoma Child Care Facilities Licensing Act, and located in a private residence, shall arrange for a criminal history records search for any adult residing in the child care facility. A criminal history records search conducted by the Oklahoma State Bureau of Investigation shall also be completed for any adult who subsequently moves into the private residence.

3. If the adult has lived in Oklahoma for less than one (1) year, a criminal history records search shall also be obtained from the previous state of residence. If the applicant planning to establish or operate a child care facility, or an employee or contract employee of the child care facility, or the contractor of the child care facility has resided in Oklahoma for less than one (1) year, the criminal history records search shall also be obtained from such person's previous state of residence.

B. 1. a. On and after September 1, 1998:

(1) any child-placing agency contracting with a person for foster family home services or in any manner for services for the care and supervision of children shall also, prior to executing a contract, complete:

(a) a foster parent eligibility assessment for the foster care provider except as otherwise provided by divisions 2 and 4 of this paragraph, and

(b) a national criminal history records search based upon submission of fingerprints for any adult residing in the foster family home

through the Department of Human Services pursuant to the provisions of the Oklahoma Foster Care and Out-of-Home Placement Act, except as otherwise provided by divisions 2 and 4 of this paragraph.

(2) The child-placing agency may place a child pending completion of the national criminal history records search if the foster care provider and every adult residing in the foster family home has resided in this state for at least five (5) years immediately preceding such placement,

(3) A national criminal history records search based upon submission of fingerprints to the Oklahoma State Bureau of Investigation shall also be completed for any adult who subsequently moves into the residence,

(4) Provided, however, the Director of Human Services or the Director of the Department of Juvenile Justice, or a designee, may authorize an exception to the fingerprinting requirement for a person residing in the home who has a severe physical condition which precludes such person's being fingerprinted, and

(5) any child care facility contracting with any person for foster family home services shall request the Office of Juvenile Affairs to conduct a juvenile justice information system review, pursuant to the provisions of Sections 7302-9.6 and 7302-3.8 of this title, for any child over the age of thirteen (13) years residing in the foster family home, other than a foster child, or

who subsequently moves into the private residence. As a condition of contract, the child care facility shall obtain the consent of the parent or legal guardian of the child for such review.

b. The provisions of this paragraph shall not apply to foster care providers having a contract or contracting with a child-placing agency, the Department of Human Services or the Department of Juvenile Justice prior to September 1, 1998. Such existing foster care providers shall comply with the provisions of ~~10 O.S. Supp. 1997, Section 404.1~~ this section, until otherwise provided by rules of the Commission for Human Services or by law.

2. a. (1) On and after September 1, 1998, except as otherwise provided in divisions 2 and 4 of this paragraph, prior to contracting with a foster family home for placement of any child who is in the custody of the Department of Human Services or the Department of Juvenile Justice, each Department shall complete a foster parent eligibility assessment, pursuant to the provisions of the Oklahoma Child Care Facilities Licensing Act, for such foster family applicant. In addition, except as otherwise provided by divisions 2 and 4 of this paragraph, the Department shall complete a national criminal history records search based upon submission of fingerprints for any adult residing in such foster family home.

(2) The Department of Human Services and Department of Juvenile Justice may place a child pending

completion of the national criminal history records search if the foster care provider and every adult residing in the foster family home has resided in this state for at least (5) years immediately preceding such placement.

(3) A national criminal history records search based upon submission of fingerprints conducted by the Oklahoma State Bureau of Investigation shall also be completed for any adult who subsequently moves into the residence.

(4) The Director of Human Services or the Director of the Department of Juvenile Justice or designee may authorize an exception to the fingerprinting requirement for any person residing in the home who has a severe physical condition which precludes such person's being fingerprinted.

b. The provisions of this paragraph shall not apply to foster care providers having a contract or contracting with a child-placing agency, the Department of Human Services or the Department of Juvenile Justice prior to September 1, 1998. Such existing foster care providers shall comply with the provisions ~~10 O.S. Supp. 1997, Section 404.1~~ this section, until otherwise provided by rules of the Commission for Human Services or by law.

3. Each Department shall provide for a juvenile justice information system review pursuant to Section 7302-3.8 of this title for any child over the age of thirteen (13) years residing in a foster family home, other than the foster child, or who subsequently moves into the private residence.

C. The Commission for Human Services or the Board of Juvenile Affairs shall promulgate rules to identify circumstances when a

criminal history records search or foster parent eligibility assessment for an applicant or contractor, or any person over the age of thirteen (13) years residing in a private residence in which a child care facility is located, shall be expanded beyond the records search conducted by the Oklahoma State Bureau of Investigation or as otherwise provided pursuant to this section.

D. 1. The following persons shall not be required to obtain a criminal history records search or a national criminal history records search based upon submission of fingerprints to the Federal Bureau of Investigation pursuant to this section:

a. a parent volunteer who transports children on an irregular basis, and

b. a child of a child care center or family child care home operator who became an adult during continuous residence at the licensed or approved facility.

2. These exemptions shall not preclude the Department from requesting a criminal history records search or requesting a national criminal history records search based upon submission of fingerprints or investigating criminal, abusive or harmful behavior of such persons, if warranted.

E. Except as otherwise provided by the Oklahoma Children's Code and subsection G of this section, a conviction for a crime shall not be an absolute bar to employment, but shall be considered in relation to specific employment duties and responsibilities.

F. 1. Information received pursuant to this section by an owner or administrator of a child care facility shall be maintained in a confidential manner in a file that is separate from employment records. The information may be transmitted to the Department for child care facility licensing purposes.

2. Whenever an applicant is subsequently employed by or contracts with a child care facility, the information received pursuant to a criminal history records search, foster parent

eligibility assessment, or a national criminal history records search based upon submission of fingerprints shall not be made a part of that individual's personnel or contract records but shall be maintained pursuant to this subsection. The information, along with any other information relevant to the individual's ability to perform tasks that require direct contact with children, may be released to another child care facility in response to a request from the child care facility that is considering employing or contracting with the individual.

3. Requirements for confidentiality and record keeping with regard to the information shall be the same for the child care facility receiving the information in response to a request as those provided for in paragraph 1 of this subsection for the child care facility releasing such information.

G. 1. A criminal history investigation or national criminal history records search based upon submission of fingerprints conducted by the Oklahoma State Bureau of Investigation shall include a search of Department of Corrections' files maintained pursuant to the Sex Offenders Registration Act.

2. a. It shall be unlawful for any person who is required to register pursuant to the Sex Offenders Registration Act to work with or provide services to children or to reside in a child care facility and for any employer who offers or provides services to children to knowingly and willfully employ or contract with, or allow continued employment of or contracting with any person who is required to register pursuant to the Sex Offenders Registration Act. Any person required to register pursuant to the Sex Offenders Registration Act who violates any provision of this act shall, upon conviction, be guilty of a felony punishable by incarceration in a correctional facility for a period

of not more than five (5) years and a fine of not more than Five Thousand Dollars ($5,000.00) or both such fine and imprisonment.

b. Upon a determination by the Department of any violation of the provisions of this section, the violator shall be subject to and the Department may pursue:

(1) an emergency order,

(2) license revocation~~,~~ or denial~~ or nonrenewal~~,

(3) injunctive proceedings,

(4) an administrative penalty not to exceed Ten Thousand Dollars ($10,000.00), and

(5) referral for criminal proceedings.

c. In addition to the penalties specified by this section, the violator may be liable for civil damages.

SECTION 6. AMENDATORY 10 O.S. 1991, Section 405, as last amended by Section 1, Chapter 130, O.S.L. 1999 (10 O.S. Supp. 2000, Section 405), is amended to read as follows:

Section 405. A. No child care facility may be operated or maintained in this state, unless licensed or temporarily authorized by the Department of Human Services; provided, that the Department shall not be required to be licensed, but shall be bound by the standards it prescribes. No new child care facility may be established without the prior approval of the Department, which shall be granted only after the Department is satisfied that such facility will meet minimum standards for a license to operate. The incorporation or domestication of a corporation organized for the purpose of operating a child care facility shall not exempt such corporation from compliance with the provisions of this act.

B. An application for a license shall be made on forms provided by the Department and in the manner prescribed. Temporary authorization may be granted to allow the Department to investigate

the activities and standards of care of the applicant. If satisfied that the applicant meets the requirements as provided in this act, a license shall be issued. A provisional license may be issued to any applicant whose services are needed but which is temporarily unable to conform to all the rules of the Department, as provided in Section 404 of this title. All licenses shall be in force ~~for two (2) years from the month of issuance~~ unless revoked as authorized by Section ~~408~~ 407 of this title~~, and may be reissued biennially on application, except that~~; provided, however, a provisional license may be in force for not more than one (1) year from the date of issuance, unless ~~such~~ an emergency exists ~~as~~ which, in the discretion of the Department, necessitates an extension thereof.

SECTION 7. AMENDATORY 10 O.S. 1991, Section 406, as last amended by Section 2, Chapter 130, O.S.L. 1999 (10 O.S. Supp. 2000, Section 406), is amended to read as follows:

Section 406. A. The Department of Human Services shall have authority at any reasonable time to investigate and examine the conditions of any child care facility in which a licensee or applicant hereunder receives and maintains children, and shall have authority at any time to require the facility to provide information pertaining to children in its care.

B. 1. The State Department of Health may visit any licensee or applicant at the request of the Department to advise on matters affecting the health of children and to inspect the sanitation of the buildings used for their care.

2. The State Fire Marshal may visit any licensee or applicant at the request of the Department to advise on matters affecting the safety of children and to inspect the condition of the buildings used for their care.

C. 1. Upon receipt of a complaint against any child care facility alleging a violation of the provisions of the Oklahoma Child Care Facilities Licensing Act, or any licensing standard

promulgated by the ~~Department~~ Commission for Human Services, the Department shall conduct a full investigation. If upon investigation, it is determined that there are reasonable grounds to believe that a facility is in violation of the Oklahoma Child Care Facilities Licensing Act or of any standard or rule promulgated pursuant ~~to the provisions of the Oklahoma Child Care Facilities Licensing Act~~ thereto, the Department shall:

a. document the complaint,

b. provide a written copy of the complaint to the facility involved, and

c. document the facility's plan for correcting the alleged violations.

2. ~~When~~ If the Department determines that there has been a violation and that the violation has a direct impact on the health, safety or well-being of one or more of the children cared for by the facility, the Department shall issue notice to the facility and require immediate correction of the violation.

3. The notice shall include ~~notice~~ a statement that failure to correct the violation can result in the revocation of the license, ~~refusal to issue or renew~~ the denial of an application for a license, or the filing of an injunction pursuant to the provisions of Section 409 of this title.

4. If the facility refuses to correct the violation or fails to complete the plan of correction, the Department may initiate proceedings to revoke the license, refuse to issue or renew a license, and request an injunction.

D. Upon the completion of the investigation of a complaint against any child care facility alleging a violation of the provisions of the Oklahoma Child Care Facilities Licensing Act or any licensing standard promulgated thereto by the ~~Department~~ Commission, the Department shall clearly designate its findings on the first page of the report of the investigation. The findings

shall state whether the complaint was substantiated or unsubstantiated.

E. Information obtained by the Department or the Office of Child Care concerning a report of a violation of a licensing requirement, or from any licensee regarding children or their parents or other relatives shall be deemed confidential and privileged communications ~~and~~, shall be properly safeguarded, and shall not be accessible to anyone except as herein provided, unless upon order of a court of competent jurisdiction. Provided, however, this provision shall not prohibit the Department from providing a summary of allegations and findings of an investigation involving a child care facility that does not disclose identities but that permits parents to evaluate the facility.

SECTION 8. AMENDATORY 19 O.S. 1991, Section 407, as last amended by Section 3, Chapter 130, O.S.L. 1999 (10 O.S. Supp. 2000, Section 407), is amended to read as follows:

Section 407. A. The Department of Human Services may revoke ~~the license~~ or ~~refuse to issue or renew~~ deny issuance of the license of any child care facility found to be in violation of any provision of this act or the rules of the ~~Department~~ Commission for Human Services, as provided in Section 404 of this title.

B. 1. No license shall be revoked or issuance ~~or renewal refused~~ denied unless and until such time as the licensee or applicant shall have been given at least thirty (30) days' notice in writing of the grounds of such proposed revocation or refusal.

2. At the time the facility is given notice in writing of the revocation or denial of a license ~~or refusal to issue or renew~~, the Department shall also advise parents of children attending the facility of such action by written notification and the posting of an announcement in the facility.

3. If such revocation or ~~refusal~~ denial is protested within thirty (30) days of receipt of such notice, by writing addressed to

the Commission for Human Services, the Commission, or its authorized agency, shall conduct a hearing at which an opportunity shall be given to such licensee or applicant to present testimony and confront witnesses.

4. Notice of such hearing shall be given to such licensee or applicant by personal service or by delivery to the proper address by certified mail, return receipt requested, at least two (2) weeks prior to the date thereof.

5. If notice of the proposed revocation or ~~refusal~~ denial of a license is not so protested, the license may thereupon be revoked or ~~renewal thereof refused~~ denied.

C. 1. Nothing in this section or Section 406 of this title shall be construed as preventing the Department from taking emergency action as provided by this subsection.

2. Whenever the Department finds, after an investigation, that an emergency exists requiring immediate action to protect the health, safety, or welfare of any child cared for by a facility licensed or authorized pursuant to the provisions of the Oklahoma Child Care Facilities Licensing Act, the Department may without notice or hearing issue an emergency order stating the existence of such an emergency and requiring that such action be taken as it deems necessary to meet the emergency including, when necessary, removing children from the facility and prohibiting the facility from providing services to children pending a hearing on the matter.

a. Such emergency order shall be effective immediately. Any person to whom such an emergency order is directed shall comply with ~~such~~ the emergency order immediately~~,~~ but, ~~on application~~ upon written request to the Department on or before the tenth (10th) day after receipt of the emergency order, shall be afforded a hearing ~~within ten (10) days of~~ on or

before the tenth (10th) day after receipt of ~~such notice~~ the request by the Department.

b. On the basis of such hearing, the Department shall continue such order in effect, revoke it, or modify it.

c. Any person aggrieved by such order continued after the hearing provided for in this subsection may appeal to the district court of the area affected within thirty (30) days. Such appeal when docketed shall have priority over all cases pending on ~~said~~ the docket, except criminal cases. For the purposes of this subsection, the term "emergency" shall mean a situation that poses a direct and serious hazard to the health, safety or welfare of any child cared for by the facility.

SECTION 9. AMENDATORY 10 O.S. 1991, Section 408, as last amended by Section 4, Chapter 130, O.S.L. 1999 (10 O.S. Supp. 2000, Section 408), is amended to read as follows:

Section 408. A. Any licensee or applicant aggrieved by the decision of the Department of Human Services under Sections 405 or 407 of this title may, within ten (10) days after the revocation or ~~refusal to issue or renew~~ denial of the license, appeal to the district court of the county in which the child care facility is maintained and operated by filing with the clerk of the court a verified petition. Notice of such appeal shall be served on the Director of the Department within five (5) days of the date of its filing.

B. The Department shall, within ten (10) days of the service of such notice, file with the clerk of such court a transcript of the proceedings had before it. The district court shall thereupon be vested with jurisdiction to review the proceedings of the Department; provided that, if the Department prevails, the judgment

of the district court shall be that the decision of the Department be affirmed, and if the licensee or applicant prevails, the judgment of the court shall be that the revocation be set aside or the license issued or renewed, as the case may be. Pending the hearing of the appeal, the action of the Department revoking or ~~refusing issuance or renewal of~~ denying the license or the granting thereof shall be stayed; provided, after the filing of an appeal, the district court, upon application by the Department and after an appropriate hearing, may grant a restraining order to enforce the decision of the Department.

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

Section 410. Any person or agent, representative, or officer of any child care facility who violates any of the provisions of ~~this act~~ the Child Care Facilities Licensing Act shall, upon conviction, be deemed guilty of a misdemeanor and punished in accordance with the provisions of ~~21 O.S.1961,~~ Section 10 of Title 21 of the Oklahoma Statutes. 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 entity's license ~~of said licensee~~.

SECTION 11. AMENDATORY 10 O.S. 1991, Section 412, is amended to read as follows:

Section 412. A. The immunizations required by this act, and the manner and frequency of their administration, as prescribed by the State Board of Health, shall conform to recognized standard medical practices in this state. The State Department of Health shall supervise and secure the enforcement of the required immunization program.

B. The Department of ~~Institutions, Social and Rehabilitative~~ Human Services shall render reasonable assistance to the State Department of Health in the enforcement of the provisions of this

act. This assistance shall be in the form of revocation or denial of the license ~~or the refusal to renew the license~~ of any facility not in compliance with this act.

SECTION 12. AMENDATORY 10 O.S. 1991, Section 413, is amended to read as follows:

Section 413. Any minor child, through his or her parent or guardian, may submit to the health authority charged with the enforcement of the immunization laws, a certificate of a licensed physician stating that the physical condition of the child is such that immunization would endanger the life or health of the child; or upon receipt of a written statement by the parent or guardian objecting to such immunizations because of religious or other reasons, then ~~said~~ such child shall be exempt from the provisions of this act.

SECTION 13. This act shall become effective November 1, 2001.

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