

ENGROSSED HOUSE AMENDMENT

TO

ENGROSSED SENATE BILL NO. 1111

By: Cain of the Senate

and

Blackburn of the House

An Act relating to children; amending 10 O.S. 2001, Sections 403, 404 and 406, which relate to the Oklahoma Child Care Facilities Licensing Act; modifying exemptions; clarifying language; providing for additional exemption; clarifying standards; modifying complaint investigation and notification procedures; and providing an effective date.

AMENDMENT NO. 1. Strike the title, enacting clause and entire bill and insert

"An Act relating to children; amending 10 O.S. 2001, Sections 403, 404 and 406, which relate to the Oklahoma Child Care Facilities Licensing Act; modifying exemptions; clarifying language; providing for additional exemption; clarifying standards; modifying complaint investigation and notification procedures; and providing an effective date.

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

SECTION 1. AMENDATORY 10 O.S. 2001, 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 that serve children three (3) years of age and older and that are operated during typical school hours by a public school district;

5. Programs that serve children three (3) years of age and older and that are 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 who are at least five (5) years of age, that are accredited by 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~~ Preschools, kindergartens, mother's day out 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

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 2. AMENDATORY 10 O.S. 2001, 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 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~~

B. Standards promulgated for residential child care facilities 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.~~ C. The 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.~~ D. Such rules shall not be promulgated until after consultation with the State Department of Health, the State Department of Education, the Oklahoma State Bureau of Investigation, the State Fire Marshal, and any other agency deemed necessary by the Commission. Not less than sixty (60) days' notice, by regular mail, shall be given to all current licensees before any changes are made in such rules.

~~D.~~ E. 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.~~ F. 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.~~ G. Foster family homes, group homes, and day care homes that have been selected and are supervised by a licensed child care facility, and 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 3. AMENDATORY 10 O.S. 2001, 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 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 thereto, the Department shall:

- a. document the complaint,
- b. provide ~~a written copy of~~ the complaint allegations in writing to the facility involved, and
- c. document the facility's plan for correcting ~~the alleged~~ any confirmed violations.

2. 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~~ notify the facility and require ~~immediate~~ correction of the violation.

3. The ~~notice~~ Department shall ~~include a statement~~ notify the facility that failure to correct the confirmed violation can result in the revocation of the license, 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 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, 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 4. This act shall become effective November 1, 2004."

Passed the House of Representatives the 1st day of April, 2004.

Presiding Officer of the House of
Representatives

Passed the Senate the ____ day of _____, 2004.

Presiding Officer of the Senate