

1 STATE OF OKLAHOMA

2 2nd Session of the 51st Legislature (2008)

3 CONFERENCE COMMITTEE
4 SUBSTITUTE
5 FOR ENGROSSED
6 HOUSE BILL NO. 2643

By: Peters, BigHorse, Johnson
(Dennis), Kern, Pittman,
Rousselot, Shumate, Sherrer
and Winchester of the House

7 and

8 Anderson and Riley of the
9 Senate

10
11 CONFERENCE COMMITTEE SUBSTITUTE

12 An Act relating to children; stating legislative
13 findings; amending 10 O.S. 2001, Section 404, as
14 amended by Section 2, Chapter 187, O.S.L. 2004 (10
15 O.S. Supp. 2007, Section 404), which relates to the
16 Oklahoma Child Care Facilities Licensing Act;
17 specifying term limitations for advisory committees;
18 expanding minimum standards for certain child care
19 facilities; amending 10 O.S. 2001, Section 404.1, as
20 amended by Section 1, Chapter 213, O.S.L. 2003 (10
21 O.S. Supp. 2007, Section 404.1), which relates to
22 criminal history background checks; providing for
23 certain records searches; specifying certain document
24 submission; authorizing the Department of Human
Services to promulgate rules regarding electronic
submission of certain documents; expanding search for
certain persons; amending 10 O.S. 2001, Section 405,
which relates to the issuance of a license; providing
for specific requirements before approval of
operation of facility; amending 10 O.S. 2001, Section
405.1, which relates to a comprehensive strategic
plan; deleting obsolete language; providing for
development of strategic plan in accordance with the
United States Department of Health and Human Services
Administration for Children and Families Child Care
Bureau; amending 10 O.S. 2001, Section 406, as

1 amended by Section 3, Chapter 187, O.S.L. 2004 (10
2 O.S. Supp. 2007, Section 406), which relates to
3 investigations; expanding access to certain
4 information; specifying instances of issuance of an
5 emergency order; amending 10 O.S. 2001, Section 407,
6 which relates to the revocation of or refusal to
7 issue or renew a license; expanding notice
8 requirement; modifying allowable time to appeal
9 certain order; defining term; providing for the
10 establishment of a review process; providing for
11 continued monitoring of closed facility; authorizing
12 the administration of fines by certain persons;
13 specifying distribution of funds; providing for the
14 establishment of certain informational database;
15 specifying information to be maintained in database;
16 providing for the Commission for Human Services to
17 establish certain registry; providing for the
18 promulgation of rules; specifying information in
19 registry; providing for review; creating the Quality
20 of Care Development Fund; providing for revenues;
21 specifying use of funds; providing for expenditures;
22 providing for codification; providing for
23 noncodification; and providing an effective date.

13
14
15 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

16 SECTION 1. NEW LAW A new section of law not to be
17 codified in the Oklahoma Statutes reads as follows:

18 The Legislature finds and declares that the care and safety of
19 children is a matter of the highest state priority. The Legislature
20 further finds that Oklahoma has had success in improving the quality
21 of child care, but that continued monitoring and improvement to the
22 system is paramount to the safety of the children of this state.

1 SECTION 2. AMENDATORY 10 O.S. 2001, Section 404, as
2 amended by Section 2, Chapter 187, O.S.L. 2004 (10 O.S. Supp. 2007,
3 Section 404), is amended to read as follows:

4 Section 404. A. The Department of Human Services shall appoint
5 advisory committees of representatives of child care facilities and
6 others to prepare minimum requirements and desirable standards for
7 promulgation by the Commission for Human Services. Committee
8 members shall be appointed for a three-year term, with a two-
9 consecutive-term limit. A majority of any committee appointed to
10 prepare requirements and standards for child care facilities shall
11 be representatives of child care facilities.

12 B. Standards promulgated for residential child care facilities
13 shall include, but not be limited to, requirements for:

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

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

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

18 4. Good health care;

19 5. Full educational and religious opportunities;

20 6. Good community relationships;

21 7. Essential records and administrative methods; and

22 8. Sufficient funds for sound operation.

23 C. Child care facilities shall not allow children to be left
24 alone in the care of any person under eighteen (18) years of age.

1 D. The Commission shall promulgate rules establishing minimum
2 requirements and desirable standards as may be deemed necessary or
3 advisable to carry out the provisions of the Oklahoma Child Care
4 Facilities Licensing Act.

5 ~~D.~~ E. Such rules shall not be promulgated until after
6 consultation with the State Department of Health, the State
7 Department of Education, the Oklahoma State Bureau of Investigation,
8 the State Fire Marshal, and any other agency deemed necessary by the
9 Commission. Not less than sixty (60) days' notice, by regular mail,
10 shall be given to all current licensees before any changes are made
11 in such rules.

12 ~~E.~~ F. In order to improve the standards of child care, the
13 Department shall ~~also~~ advise and cooperate with licensees, the
14 governing bodies and ~~staffs~~ staff of licensed child care facilities
15 and assist the ~~staffs thereof~~ staff through advice of progressive
16 methods and procedures, and suggestions for the improvement of
17 services.

18 ~~F.~~ G. The Department may participate in federal programs for
19 ~~day~~ child care services, and enter into agreements or plans on
20 behalf of the state for ~~such~~ that purpose, in accordance with
21 federal laws and regulations.

22 ~~G.~~ H. Foster family homes, and group homes, ~~and day care homes~~
23 ~~that have been~~ selected and ~~are~~ supervised by a licensed child care
24 facility, ~~and that meet~~ meeting the standards established for

1 licensing pursuant to the provisions of the Oklahoma Child Care
2 Facilities Licensing Act, may be maintained and operated on the
3 basis of permits issued by ~~such~~ the child care facility.

4 SECTION 3. AMENDATORY 10 O.S. 2001, Section 404.1, as
5 amended by Section 1, Chapter 213, O.S.L. 2003 (10 O.S. Supp. 2007,
6 Section 404.1), is amended to read as follows:

7 Section 404.1

8 A. 1. a. Except as otherwise provided by subsection B of this
9 section, prior to the issuance of a license, the
10 Department of Human Services shall require a criminal
11 history records search, conducted by the Oklahoma
12 State Bureau of Investigation, and a records search of
13 the Oklahoma child care worker registry established in
14 Section 9 of this act for any person making
15 application to establish or operate a child care
16 facility ~~prior to the issuance of a license to operate~~
17 ~~such facility.~~

18 b. Prior to the issuance of a permit or license, the
19 Department shall conduct a records search of the
20 Oklahoma State Courts Network for any person making
21 application to establish or operate a child care
22 facility.

23 2. a. ~~Every~~ Prior to the employment of any person in a child
24 care facility, the facility shall ~~arrange, prior to~~

1 ~~employment, for~~ submit a criminal history records
2 search ~~to be~~ conducted by the Oklahoma State Bureau of
3 Investigation ~~for any person to be employed by the~~
4 ~~child care facility~~ and documentation of a records
5 search of the Oklahoma child care worker registry to
6 the Oklahoma Department of Human Services division
7 responsible for child care licensing.

8 b. ~~In addition, any~~ Prior to the employment of any person
9 in a child care facility, the Department shall conduct
10 a records search of the Oklahoma State Courts Network
11 for that person.

12 c. The Department shall conduct a records search of the
13 Oklahoma State Courts Network for all employees and
14 persons eighteen (18) years of age or older residing
15 in a child care center, family child care home, large
16 family child care home, part-day program, school age
17 program, or summer day camp program.

18 d. Prior to allowing any person eighteen (18) years of
19 age or older to reside in a child care facility,
20 ~~licensed or approved pursuant to the Oklahoma Child~~
21 ~~Care Facilities Licensing Act, and located in a~~
22 ~~private residence,~~ center, family child care home,
23 large family child care home, part-day program, school
24 age program, or summer day camp program:

1 (1) the facility shall ~~arrange for~~ submit to the
2 Department of Human Services division responsible
3 for child care licensing a criminal history
4 records search for any adult residing in the
5 child care facility. A criminal history records
6 search conducted by the Oklahoma State Bureau of
7 Investigation shall also be completed for any
8 adult who subsequently moves into the private
9 residence conducted by the Oklahoma State Bureau
10 of Investigation and documentation of a records
11 search of the Oklahoma child care worker
12 registry, and

13 (2) the Department shall conduct a records search of
14 the Oklahoma State Courts Network.

15 3. Once a facility has submitted an original document from the
16 Oklahoma State Bureau of Investigation to the Department, a copy of
17 that exact document shall be sufficient to satisfy any further
18 request for that document. The Department may promulgate rules
19 regarding the electronic submission of required documents.

20 4. If the ~~adult has~~ following persons have lived in Oklahoma
21 for less than ~~one (1) year~~ three (3) years, a criminal history
22 records search shall also be obtained from the previous ~~state~~ states
23 of residence. ~~If the applicant planning to establish or operate a~~
24 child care facility, or an employee or contract employee of the

1 ~~child care facility, or the contractor of the child care facility~~
2 ~~has resided in Oklahoma for less than one (1) year, the criminal~~
3 ~~history records search shall also be obtained from such person's~~
4 ~~previous state of residence for:~~

- 5 a. applicants for a license to operate a child care
6 facility,
- 7 b. employees of a child care facility, and
- 8 c. persons age eighteen (18) years or older residing in a
9 child care center, family child care home, large
10 family child care home, part-day program, school age
11 program, or summer day-camp program.

12 ~~4.~~ 5. The Department of Juvenile Justice may directly request
13 national criminal history records searches as defined by Section
14 150.9 of Title 74 of the Oklahoma Statutes from the Oklahoma State
15 Bureau of Investigation for the purpose of obtaining the national
16 criminal history of any employee or applicant who has resided in
17 Oklahoma for less than ~~one (1) year~~ three (3) years for which a
18 search is required.

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

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

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

5 (b) a national criminal history records search
6 based upon submission of fingerprints for
7 any adult residing in the foster family home
8 through the Department of Human Services
9 pursuant to the provisions of the Oklahoma
10 Foster Care and Out-of-Home Placement Act,
11 except as otherwise provided by divisions 2
12 and 4 of this subparagraph,

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

20 (3) a national criminal history records search based
21 upon submission of fingerprints to the Oklahoma
22 State Bureau of Investigation shall also be
23 completed for any adult who subsequently moves
24 into the ~~residence~~ foster family home,

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

8 (5) any child care facility contracting with any
9 person for foster family home services shall
10 request the Office of Juvenile Affairs to conduct
11 a juvenile justice information system review,
12 pursuant to the provisions of Sections 7302-9.6
13 and 7302-3.8 of this title, for any child over
14 the age of thirteen (13) years residing in the
15 foster family home, other than a foster child, or
16 who subsequently moves into the ~~private residence~~
17 foster family home. As a condition of contract,
18 the child care facility shall obtain the consent
19 of the parent or legal guardian of the child for
20 such review.

21 b. The provisions of this paragraph shall not apply to
22 foster care providers having a contract or contracting
23 with a child-placing agency, the Department of Human
24 Services or the Department of Juvenile Justice prior

1 to September 1, 1998. Such existing foster care
2 providers shall comply with the provisions of this
3 section, until otherwise provided by rules of the
4 Commission for Human Services or by law.

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

21 (2) The Department of Human Services and Department
22 of Juvenile Justice may place a child pending
23 completion of the national criminal history
24 records search if the foster care provider and

1 every adult residing in the foster family home
2 has resided in this state for at least (5) years
3 immediately preceding such placement.

4 (3) A national criminal history records search based
5 upon submission of fingerprints conducted by the
6 Oklahoma State Bureau of Investigation shall also
7 be completed for any adult who subsequently moves
8 into the ~~residence~~ foster family home.

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

15 b. The provisions of this paragraph shall not apply to
16 foster care providers having a contract or contracting
17 with a child-placing agency, the Department of Human
18 Services or the Department of Juvenile Justice prior
19 to September 1, 1998. Such existing foster care
20 providers shall comply with the provisions of this
21 section, until otherwise provided by rules of the
22 Commission for Human Services or by law.

23 3. Each Department shall provide for a juvenile justice
24 information system review pursuant to Section 7302-3.8 of this title

1 for any child over the age of thirteen (13) years residing in a
2 foster family home, other than the foster child, or who subsequently
3 moves into the ~~private residence~~ foster family home.

4 C. The Commission for Human Services or the Board of Juvenile
5 Affairs shall promulgate rules to identify circumstances when a
6 criminal history records search or foster parent eligibility
7 assessment for an applicant or contractor, or any person over the
8 age of thirteen (13) years residing in a private residence in which
9 a child care facility is located, shall be expanded beyond the
10 records search conducted by the Oklahoma State Bureau of
11 Investigation or as otherwise provided pursuant to this section.

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

- 16 a. a parent volunteer who transports children on an
17 irregular basis, and
18 b. a child ~~of~~ residing in a child care center ~~or~~, family
19 child care home ~~operator~~, or large family child care
20 home who became an adult during continuous residence
21 at the licensed or approved facility.

22 2. These exemptions shall not preclude the Department from
23 requesting a criminal history records search or requesting a
24 national criminal history records search based upon submission of

1 fingerprints or investigating criminal, abusive or harmful behavior
2 of such persons, if warranted.

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

7 F. 1. Information received pursuant to this section by an
8 owner or administrator of a child care facility shall be maintained
9 in a confidential manner ~~in a file that is separate from employment~~
10 ~~records. The information may be transmitted to the Department for~~
11 ~~child care facility licensing purposes~~ pursuant to applicable state
12 or federal law.

13 2. ~~Whenever an applicant is subsequently employed by or~~
14 ~~contracts with a child care facility, the information received~~
15 ~~pursuant to a criminal history records search, foster parent~~
16 ~~eligibility assessment, or a national criminal history records~~
17 ~~search based upon submission of fingerprints shall not be made a~~
18 ~~part of that individual's personnel or contract records but shall be~~
19 ~~maintained pursuant to this subsection.~~ The information, along with
20 any other information relevant to the ~~individual's~~ ability of the
21 individual to perform tasks that require direct contact with
22 children, may be released to another child care facility in response
23 to a request from the child care facility that is considering

24

1 employing or contracting with the individual unless deemed
2 confidential by state or federal law.

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

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

14 2. a. It shall be unlawful for any person who is required to
15 register pursuant to the Sex Offenders Registration
16 Act to work with or provide services to children or to
17 reside in a child care facility and for any employer
18 who offers or provides services to children to
19 knowingly and willfully employ or contract with, or
20 allow continued employment of or contracting with any
21 person who is required to register pursuant to the Sex
22 Offenders Registration Act. Any person required to
23 register pursuant to the Sex Offenders Registration
24 Act who violates any provision of this act shall, upon

1 conviction, be guilty of a felony punishable by
2 incarceration in a correctional facility for a period
3 of not more than five (5) years and a fine of not more
4 than Five Thousand Dollars (\$5,000.00) or both such
5 fine and imprisonment.

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

- 10 (1) an emergency order,
- 11 (2) license revocation or denial,
- 12 (3) injunctive proceedings,
- 13 (4) an administrative penalty not to exceed Ten
14 Thousand Dollars (\$10,000.00), and
- 15 (5) referral for criminal proceedings.

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

18 SECTION 4. AMENDATORY 10 O.S. 2001, Section 405, is
19 amended to read as follows:

20 Section 405. A. No child care facility may be operated or
21 maintained in this state, unless licensed or temporarily authorized
22 by the Department of Human Services; provided, that the Department
23 shall not be required to be licensed, but shall be bound by the
24 standards it prescribes. No new child care facility may be

1 established without the prior approval of the Department, which
2 shall be granted only after the Department is satisfied that ~~such~~
3 the facility will meet minimum standards for a license to operate.

4 B. The Department shall not grant approval for a permit, or a
5 license for a new child care facility to receive and care for
6 children until:

7 1. All requirements for searches of criminal history records
8 and the child care worker registry are met pursuant to subsection A
9 of Section 404.1 of this title; and

10 2. All required training including, but not limited to,
11 cardiopulmonary resuscitation (CPR), first aid, health and safety
12 training, and minimum education requirements pursuant to licensing
13 requirements have been completed for any person left alone with
14 children.

15 C. The incorporation or domestication of a corporation
16 organized for the purpose of operating a child care facility shall
17 not exempt such corporation from compliance with the provisions of
18 this act.

19 ~~B.~~ D. An application for a license shall be made on forms
20 provided by the Department and in the manner prescribed. Temporary
21 authorization may be granted to allow the Department to investigate
22 the activities and standards of care of the applicant. ~~If~~ The
23 Department may issue a license once it is satisfied that the
24 applicant meets the requirements as provided in this act,~~a license~~

1 ~~shall be issued.~~ A provisional license may be issued upon
2 satisfaction of the requirements of subsection B of this section to
3 any applicant whose services are needed but which is temporarily
4 unable to conform to all the rules of the Department, as provided in
5 Section 404 of this title. All licenses shall be in force unless
6 revoked as authorized by Section 407 of this title; provided,
7 however, a provisional license may be in force for not more than one
8 (1) year from the date of issuance, unless an emergency exists
9 which, in the discretion of the Department, necessitates an
10 extension thereof.

11 SECTION 5. AMENDATORY 10 O.S. 2001, Section 405.1, is
12 amended to read as follows:

13 Section 405.1 A. The Department of Human Services shall
14 collaborate with other appropriate agencies to develop ~~by December~~
15 ~~31, 1998,~~ a comprehensive ~~strategie~~ Oklahoma state plan for child
16 care ~~faelilities~~.

17 B. The comprehensive ~~strategie~~ plan shall:

18 1. ~~Set a goal to annually increase the number of new child care~~
19 ~~programs and thereby expand capacity to meet the need~~ Meet all
20 requirements for child care state plans as periodically determined
21 by the United States Department of Health and Human Services

22 Administration for Children and Families Child Care Bureau; and

23 2. ~~Describe methods to reduce existing barriers to accessing~~
24 ~~child care financing;~~

1 ~~3. Offer plans to develop new child care capital financing~~
2 ~~mechanisms;~~

3 ~~4. Describe methods to integrate existing capital financing~~
4 ~~programs;~~

5 ~~5. Develop a public information campaign to attract potential~~
6 ~~providers of child care services; and~~

7 ~~6. Propose such other activities deemed appropriate for~~
8 ~~increasing the supply and quality of child care in this state Be~~
9 ~~submitted to the Speaker of the Oklahoma House of Representatives~~
10 ~~and the President Pro Tempore of the Senate on a biannual basis.~~

11 ~~C. As part of the development of the comprehensive strategic~~
12 ~~plan;~~

13 ~~1. The Department shall, from funds available, develop a child~~
14 ~~care facility information database consisting of data on existing~~
15 ~~early childhood child care providers serving children including, but~~
16 ~~not limited to, regulated child care providers, Head Start and~~
17 ~~prekindergarten programs. The information in the database shall~~
18 ~~include, but not be limited to:~~

19 ~~a. the types and number of programs,~~

20 ~~b. program location, including county,~~

21 ~~c. ages served,~~

22 ~~d. the capacity of the programs,~~

23 ~~e. the hours and calendar of program operations, and~~

24 ~~f. program rates;~~

1 ~~2. County specific information on the number of children~~
2 ~~currently served shall be compared to the local projected need from:~~

- 3 ~~a. demographic information and waiting lists maintained~~
4 ~~for child care programs,~~
- 5 ~~b. local district estimates of child care needs for~~
6 ~~participants in the job opportunities and basic skills~~
7 ~~training program, and~~
- 8 ~~c. families eligible for child care subsidies;~~

9 ~~3. Information shall be compiled regarding:~~

- 10 ~~a. funding sources and amounts for eligible families,~~
- 11 ~~b. health and safety grants,~~
- 12 ~~c. start up and capital grants,~~
- 13 ~~d. child care resource and referral programs,~~
- 14 ~~e. any other public funding which is directed at~~
15 ~~increasing the number and size of early childhood~~
16 ~~programs, and~~
- 17 ~~f. any known private funding sources earmarked for~~
18 ~~capital, start up or subsidies for child care~~
19 ~~providers;~~

20 ~~4. The Department shall compile information on technical~~
21 ~~assistance activities presently available to existing and potential~~
22 ~~child care providers; and~~

1 ~~5. On or before February 1, 1999, the Department shall submit a~~
2 ~~preliminary report to the Speaker of the House of Representatives~~
3 ~~and the President Pro Tempore of the Senate containing:~~

4 ~~a. a compilation of the existing data designated in this~~
5 ~~section,~~

6 ~~b. information available on private sector interest,~~
7 ~~involvement or plans for development of child care in~~
8 ~~this state, and~~

9 ~~c. information from child care resource and referral~~
10 ~~programs about the numbers of inquiries received from~~
11 ~~parents and businesses.~~

12 SECTION 6. AMENDATORY 10 O.S. 2001, Section 406, as
13 amended by Section 3, Chapter 187, O.S.L. 2004 (10 O.S. Supp. 2007,
14 Section 406), is amended to read as follows:

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

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

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

5 C. 1. Upon receipt of a complaint against any child care
6 facility alleging a violation of the provisions of the Oklahoma
7 Child Care Facilities Licensing Act, or any licensing standard
8 promulgated by the Commission for Human Services, the Department
9 shall conduct a full investigation. If upon investigation, it is
10 determined that there are reasonable grounds to believe that a
11 facility is in violation of the Oklahoma Child Care Facilities
12 Licensing Act or of any standard or rule promulgated pursuant
13 thereto, the Department shall:

- 14 a. document the complaint,
- 15 b. provide the complaint allegations in writing to the
16 facility involved and, upon written request by the
17 child care facility, provide a summary of the facts
18 used to evaluate the completed complaint, and
- 19 c. document the facility's plan for correcting any
20 ~~confirmed~~ substantiated violations.

21 2. If the Department determines ~~that~~ there has been a violation
22 and ~~that~~ the violation has a direct impact on the health, safety or
23 well-being of one or more of the children cared for by the facility,
24

1 the Department shall notify the facility and require correction of
2 the violation.

3 3. The Department shall notify the facility that failure to
4 correct the confirmed violation can result in the revocation of the
5 license, the denial of an application for a license, the issuance of
6 an emergency order or the filing of an injunction pursuant to the
7 provisions of Section 409 of this title.

8 4. If the facility refuses to correct ~~the~~ a violation or fails
9 to complete the plan of correction, the Department may ~~initiate~~
10 ~~proceedings to~~ issue an emergency order, revoke the license, ~~refuse~~
11 ~~to issue or renew a license, and request an injunction~~ or deny the
12 application for a license. Nothing in this section or Section 407
13 of this title shall be construed as preventing the Department from
14 denying an application, revoking a license, or issuing an emergency
15 order for a single violation of this act, or the rules of the
16 Commission for Human Services as provided in Section 404 of this
17 title.

18 D. Upon the completion of the investigation of a complaint
19 against any child care facility alleging a violation of the
20 provisions of the Oklahoma Child Care Facilities Licensing Act or
21 any licensing standard promulgated thereto by the Commission, the
22 Department shall clearly designate its findings on the first page of
23 the report of the investigation. The findings shall state whether
24 the complaint was substantiated or unsubstantiated.

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

12 SECTION 7. AMENDATORY 10 O.S. 2001, Section 407, is
13 amended to read as follows:

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

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

23 2. At the time the facility is given notice in writing of the
24 revocation or denial of a license, the Department shall also advise

1 parents of children attending the facility and the child care
2 resource and referral organization within one (1) business day of
3 such action by verbal, electronic, or written notification and the
4 posting of an announcement in the facility.

5 3. If ~~such~~ the revocation or denial is protested within thirty
6 (30) days of receipt of ~~such~~ notice, by writing addressed to the
7 Commission for Human Services, the Commission, or its authorized
8 agency, shall conduct a hearing at which an opportunity shall be
9 given to ~~such~~ the licensee or applicant to present testimony and
10 confront witnesses.

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

15 5. If notice of the proposed revocation or denial of a license
16 is not ~~so~~ protested, the license ~~may thereupon~~ shall be revoked or
17 denied.

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

21 2. For the purposes of this subsection, "emergency" means a
22 situation that poses a direct and serious threat to the health,
23 safety, or welfare of any child cared for by the facility.
24

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

12 a. ~~Such~~ An emergency order shall be effective
13 immediately. Any person to whom ~~such~~ an emergency
14 order is directed shall comply with the emergency
15 order immediately but, upon written request to the
16 Department on or before the tenth day after receipt of
17 the emergency order, shall be afforded a hearing on or
18 before the tenth day after receipt of the request by
19 the Department.

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

23 c. Any person aggrieved by ~~such~~ the order continued after
24 the hearing provided for in this subsection may appeal

1 to the district court of the area affected within
2 ~~thirty (30)~~ ten (10) days. ~~Such~~ The appeal when
3 docketed shall have priority over all cases pending on
4 the docket, except criminal cases. ~~For the purposes~~
5 ~~of this subsection, the term "emergency" shall mean a~~
6 ~~situation that poses a direct and serious hazard to~~
7 ~~the health, safety or welfare of any child cared for~~
8 ~~by the facility.~~

9 D. The Department shall establish a process to review the
10 initial determination of the closure of a facility due to an
11 emergency pursuant to the licensing requirements promulgated by the
12 Commission.

13 E. The Department shall continue to monitor any facility whose
14 license has been revoked, denied, or who has had an emergency order
15 issued for a period of thirty (30) days after the action becomes
16 final.

17 F. In addition to any other remedy authorized by this act, a
18 CLEET-certified officer may issue a citation for a violation of any
19 provision of this act or rules of the Commission for Human Services
20 as provided in Section 404 of this title. The fine shall not be
21 less than One Hundred Dollars (\$100.00) nor more than Five Hundred
22 Dollars (\$500.00) for every day the facility maintains and receives
23 children after:

24 1. An emergency order has been issued; or

1 2. An application for a license has been denied or the license
2 has been revoked.

3 G. One-half (1/2) of the funds collected pursuant to subsection
4 F of this section shall be deposited in the Quality of Care
5 Development Fund established in Section 10 of this act and one-half
6 (1/2) shall be retained by the law enforcement agency represented by
7 the CLEET-certified officer.

8 SECTION 8. NEW LAW A new section of law to be codified
9 in the Oklahoma Statutes as Section 405.2 of Title 10, unless there
10 is created a duplication in numbering, reads as follows:

11 A. The Commission for Human Services shall promulgate rules to
12 establish and maintain an online database accessible to the public
13 that contains information including, but not limited to:

14 1. The name, address, and phone number of all licensed child
15 care centers, and the name, city, state and zip code of all child
16 care homes; and

17 2. A summary of substantiated complaint records and inspection
18 reports generated by the Department of Human Services.

19 B. Child care licensing records and inspection reports shall be
20 maintained by the facility and be posted or made available to the
21 past, current, and prospective consumers pursuant to the licensing
22 requirements promulgated by the Commission.

23 C. The Department of Human Services shall develop, by July 1,
24 2011, a web-based assessment tool for the public to evaluate

1 compliance of child care center, child care home, and large family
2 child care home compliance with requirements based upon a numerical
3 score.

4 SECTION 9. NEW LAW A new section of law to be codified
5 in the Oklahoma Statutes as Section 405.3 of Title 10, unless there
6 is created a duplication in numbering, reads as follows:

7 A. On or before July 1, 2010, the Commission for Human Services
8 shall promulgate rules to establish and maintain a child care worker
9 registry, accessible to the public through an on-line database, to
10 address:

11 1. A procedure for recording persons in the registry resulting
12 from:

13 a. a finding of abuse or neglect, as defined in Section
14 7102 of Title 10 of the Oklahoma Statutes, by a person
15 when the abuse or neglect occurred to children while
16 in the care of a child care facility,

17 b. a revocation or denial of a child care facility
18 license, and

19 c. a specified criminal history of an individual, as
20 defined by rules promulgated by the Oklahoma
21 Commission for Human Services;

22 2. A procedure to provide notice and an opportunity for review
23 prior to recording a person in the registry;

24 3. Disclosure requirements for information in the registry; and

1 4. A procedure to restrict licensure or employment in a child
2 care facility of any person recorded in the child care worker
3 registry.

4 B. The child care worker registry shall include, but not be
5 limited to:

- 6 1. The full name of the individual;
- 7 2. Information necessary to identify the individual; and
- 8 3. The date the individual was recorded in the registry.

9 SECTION 10. NEW LAW A new section of law to be codified
10 in the Oklahoma Statutes as Section 410.1 of Title 10, unless there
11 is created a duplication in numbering, reads as follows:

12 There is established in the State Treasury a revolving fund to
13 be known as the "Quality of Care Development Fund". The fund shall
14 be a continuing fund, not subject to fiscal year limitations, and
15 shall consist of all fines collected by the Department of Human
16 Services pursuant to Section 407 of Title 10 of the Oklahoma
17 Statutes and shall, in addition to any other monies made available
18 for such purpose, be available to the Director solely to support the
19 continued improvement of the child care facilities in this state.
20 Expenditures from the fund shall be made upon warrants issued by the
21 State Treasurer against claims filed as prescribed by law with the
22 Director of State Finance for approval and payment.

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SECTION 11. This act shall become effective November 1, 2008.

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