

1 STATE OF OKLAHOMA

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

3 COMMITTEE SUBSTITUTE

4 FOR

5 HOUSE BILL NO. 2643

By: Peters

6
7 COMMITTEE SUBSTITUTE

8 (Children - Oklahoma Child Care Licensing Facilities
9 Act - fingerprint check - child care abuse registry
10 search - child care informational database - child
11 care abuse registry - Quality of Child Development
12 Fund - codification - noncodification -
13 emergency)

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

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

19 The Legislature finds and declares that the care and safety of
20 children is a matter of the highest state priority. The Legislature
21 further finds that Oklahoma has had success in improving the quality
22 of child care, but that continued monitoring and improvement to the
23 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~~ with at least fifty percent
6 (50%) of members being owners and operators of child care facilities
7 ~~and others~~ to prepare minimum requirements and desirable standards
8 for promulgation by the Commission for Human Services. Committee
9 members shall be appointed for a three-year term, with a two-term
10 limit. A majority of any committee appointed to prepare
11 requirements and standards for child care facilities shall be
12 ~~representatives~~ owners and operators of child care facilities.

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

- 15 1. A constructive program and services to meet the needs of
16 each child and family;
- 17 2. Staff of good moral character and ability for child care;
- 18 3. Adequate and safe housing, sanitation, and equipment;
- 19 4. Good health care;
- 20 5. Full educational and religious opportunities;
- 21 6. Good community relationships;
- 22 7. Essential records and administrative methods; and
- 23 8. Sufficient funds for sound operation.

24

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

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

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

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

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

23 ~~G.~~ H. Foster family homes, and group homes, ~~and day care homes~~
24 ~~that have been~~ selected and ~~are~~ supervised by a licensed child care

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

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

8 Section 404.1 A. 1. Except as otherwise provided by
9 subsection B of this section, the Department of Human Services shall
10 require a criminal history records search, conducted by the Oklahoma
11 State Bureau of Investigation to be paid for by the facility, for
12 ~~any person making application to establish or operate a child care~~
13 ~~facility prior to the issuance of a license to operate such facility~~
14 a national criminal history records search based upon submission of
15 fingerprints to be paid for by the Department and a records search
16 of the Oklahoma child care abuse registry established in Section 9
17 of this act.

18 2. a. ~~Every~~ Prior to the employment of any person in a child
19 care facility, the facility shall arrange, prior to
20 ~~employment, for~~ submit a criminal history records
21 search ~~to be~~ conducted by the Oklahoma State Bureau of
22 Investigation ~~for any person to be employed by the~~
23 ~~child care facility~~ and documentation of a records
24 search of the Oklahoma child care abuse registry

1 established in Section 9 of this act to the Oklahoma
2 Department of Human Services.

3 b. ~~In addition, any~~ Prior to employment of any person in
4 a child care facility, the facility shall submit to
5 the Department a request for a national criminal
6 history records search based upon submission of
7 fingerprints for that person. Upon receipt of the
8 test results, the Department shall notify the facility
9 of whether or not the person has a criminal conviction
10 or has pled nolo contendere, or no contest, to a
11 crime. The Department shall keep this record
12 confidential in accordance with state and federal law.

13 c. For any person eighteen (18) years of age or older
14 being allowed to reside in a child care facility,
15 ~~licensed or approved pursuant to the Oklahoma Child~~
16 ~~Care Facilities Licensing Act, and located in a~~
17 ~~private residence,~~ the facility shall arrange for
18 submit a criminal history records search for any adult
19 residing in the child care facility. A criminal
20 history records search conducted by the Oklahoma State
21 Bureau of Investigation shall also be completed for
22 any adult who subsequently moves into the private
23 residence conducted by the Oklahoma State Bureau of

1 Investigation and documentation of a records search of
2 the child care abuse registry to the Department.

3 d. A facility shall submit to the Department a request by
4 the facility for a national criminal history records
5 search based upon submission of fingerprints for any
6 person eighteen (18) years of age or older who resides
7 in a child care facility in accordance with
8 subparagraph b of this paragraph.

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

17 ~~4.~~ The Department of Juvenile Justice may directly request
18 national criminal history records searches as defined by Section
19 150.9 of Title 74 of the Oklahoma Statutes from the Oklahoma State
20 Bureau of Investigation for the purpose of obtaining the national
21 criminal history of any employee or applicant who has resided in
22 Oklahoma for less than one (1) year for which a search is required.

23 B. 1. a. On and after September 1, 1998:
24

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

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

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

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

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

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

13 (5) any child care facility contracting with any
14 person for foster family home services shall
15 request the Office of Juvenile Affairs to conduct
16 a juvenile justice information system review,
17 pursuant to the provisions of Sections 7302-9.6
18 and 7302-3.8 of this title, for any child over
19 the age of thirteen (13) years residing in the
20 foster family home, other than a foster child, or
21 who subsequently moves into the private
22 residence. As a condition of contract, the child
23 care facility shall obtain the consent of the
24

1 parent or legal guardian of the child for such
2 review.

3 b. The provisions of this paragraph shall not apply to
4 foster care providers having a contract or contracting
5 with a child-placing agency, the Department of Human
6 Services or the Department of Juvenile Justice prior
7 to September 1, 1998. Such existing foster care
8 providers shall comply with the provisions of this
9 section, until otherwise provided by rules of the
10 Commission for Human Services or by law.

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

1 fingerprints for any adult residing in such
2 foster family home.

3 (2) The Department of Human Services and Department
4 of Juvenile Justice may place a child pending
5 completion of the national criminal history
6 records search if the foster care provider and
7 every adult residing in the foster family home
8 has resided in this state for at least (5) years
9 immediately preceding such placement.

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

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

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

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

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

22 a. a parent volunteer who transports children on an
23 irregular basis, and
24

1 b. a child ~~of~~ residing in a child care center ~~or~~, family
2 child care home ~~operator~~, or large family child care
3 home licensee who became an adult during continuous
4 residence at the licensed or approved facility.

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

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

14 F. 1. Information received pursuant to this section by an
15 owner or administrator of a child care facility shall be maintained
16 in a confidential manner ~~in a file that is separate from employment~~
17 ~~records. The information may be transmitted to the Department for~~
18 ~~child care facility licensing purposes~~ pursuant to applicable state
19 or federal law.

20 2. ~~Whenever an applicant is subsequently employed by or~~
21 ~~contracts with a child care facility, the information received~~
22 ~~pursuant to a criminal history records search, foster parent~~
23 ~~eligibility assessment, or a national criminal history records~~
24 ~~search based upon submission of fingerprints shall not be made a~~

1 ~~part of that individual's personnel or contract records but shall be~~
2 ~~maintained pursuant to this subsection.~~ The information, along with
3 any other information relevant to the ~~individual's~~ ability of the
4 individual to perform tasks that require direct contact with
5 children, may be released to another child care facility in response
6 to a request from the child care facility that is considering
7 employing or contracting with the individual unless deemed
8 confidential by state or federal law.

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

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

20 2. a. It shall be unlawful for any person who is required to
21 register pursuant to the Sex Offenders Registration
22 Act to work with or provide services to children or to
23 reside in a child care facility and for any employer
24 who offers or provides services to children to

1 knowingly and willfully employ or contract with, or
2 allow continued employment of or contracting with any
3 person who is required to register pursuant to the Sex
4 Offenders Registration Act. Any person required to
5 register pursuant to the Sex Offenders Registration
6 Act who violates any provision of this act shall, upon
7 conviction, be guilty of a felony punishable by
8 incarceration in a correctional facility for a period
9 of not more than five (5) years and a fine of not more
10 than Five Thousand Dollars (\$5,000.00) or both such
11 fine and imprisonment.

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

- 16 (1) an emergency order,
- 17 (2) license revocation or denial,
- 18 (3) injunctive proceedings,
- 19 (4) an administrative penalty not to exceed Ten
20 Thousand Dollars (\$10,000.00), and
- 21 (5) referral for criminal proceedings.

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

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

3 Section 405. A. No child care facility may be operated or
4 maintained in this state, unless licensed or temporarily authorized
5 by the Department of Human Services; provided, that the Department
6 shall not be required to be licensed, but shall be bound by the
7 standards it prescribes. No new child care facility may be
8 established without the prior approval of the Department, which
9 shall be granted only after the Department is satisfied that ~~such~~
10 the facility will meet minimum standards for a license to operate.

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

14 1. A criminal history records search conducted by the Oklahoma
15 State Bureau of Investigation, a request for a national criminal
16 history records search based upon submission of fingerprints, and a
17 records search of the Oklahoma child care abuse registry established
18 in Section 9 of this act have been submitted to the Department of
19 Human Services for all applicants, employees, and persons required
20 to sign the application;

21 2. All required training including, but not limited to,
22 cardiopulmonary resuscitation (CPR), first aid, health and safety
23 training, and minimum education requirements pursuant to licensing
24 requirements have been completed by employees having direct contact

1 with children with documentation of proof provided to the
2 Department; and

3 3. A work history check of the applicant has been completed.

4 C. Facilities undergoing or that have completed a transfer of
5 ownership are exempted from complying with the provisions of
6 subsection B of this section.

7 D. The incorporation or domestication of a corporation
8 organized for the purpose of operating a child care facility shall
9 not exempt such corporation from compliance with the provisions of
10 this act.

11 ~~B.~~ E. An application for a license shall be made on forms
12 provided by the Department and in the manner prescribed. Temporary
13 authorization may be granted to allow the Department to investigate
14 the activities and standards of care of the applicant, as long as
15 the requirements provided for in subsection B of this section are
16 satisfied. ~~If~~ The Department may issue a license once it is
17 satisfied that the applicant meets the requirements as provided in
18 this act, a license shall be issued. A provisional license may be
19 issued upon satisfaction of the requirements of subsection B of this
20 section to any applicant whose services are needed but which is
21 temporarily unable to conform to all the rules of the Department, as
22 provided in Section 404 of this title. All licenses shall be in
23 force unless revoked as authorized by Section 407 of this title;
24 provided, however, a provisional license may be in force for not

1 more than one (1) year from the date of issuance, unless an
2 emergency exists which, in the discretion of the Department,
3 necessitates an extension thereof.

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

6 Section 405.1 A. The Department of Human Services shall
7 collaborate with other appropriate agencies to develop ~~by December~~
8 ~~31, 1998,~~ a comprehensive ~~strategie~~ Oklahoma state plan for child
9 care ~~faacilities~~.

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

11 1. ~~Set a goal to annually increase the number of new child care~~
12 ~~programs and thereby expand capacity to meet the need~~ Meet all
13 requirements for child care state plans as periodically determined
14 by the United States Department of Health and Human Services
15 Administration for Children and Families Child Care Bureau; and

16 2. ~~Describe methods to reduce existing barriers to accessing~~
17 ~~child care financing;~~

18 3. ~~Offer plans to develop new child care capital financing~~
19 ~~mechanisms;~~

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

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

24

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

5 ~~C. As part of the development of the comprehensive strategic~~
6 ~~plan:~~

7 ~~1. The Department shall, from funds available, develop a child~~
8 ~~care facility information database consisting of data on existing~~
9 ~~early childhood child care providers serving children including, but~~
10 ~~not limited to, regulated child care providers, Head Start and~~
11 ~~prekindergarten programs. The information in the database shall~~
12 ~~include, but not be limited to:~~

- 13 ~~a. the types and number of programs,~~
- 14 ~~b. program location, including county,~~
- 15 ~~c. ages served,~~
- 16 ~~d. the capacity of the programs,~~
- 17 ~~e. the hours and calendar of program operations, and~~
- 18 ~~f. program rates,~~

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

- 21 ~~a. demographic information and waiting lists maintained~~
22 ~~for child care programs,~~

1 ~~b. local district estimates of child care needs for~~
2 ~~participants in the job opportunities and basic skills~~
3 ~~training program, and~~

4 ~~e. families eligible for child care subsidies;~~

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

6 ~~a. funding sources and amounts for eligible families,~~

7 ~~b. health and safety grants,~~

8 ~~c. start up and capital grants,~~

9 ~~d. child care resource and referral programs,~~

10 ~~e. any other public funding which is directed at~~
11 ~~increasing the number and size of early childhood~~
12 ~~programs, and~~

13 ~~f. any known private funding sources earmarked for~~
14 ~~capital, start up or subsidies for child care~~
15 ~~providers;~~

16 ~~4. The Department shall compile information on technical~~
17 ~~assistance activities presently available to existing and potential~~
18 ~~child care providers; and~~

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

22 ~~a. a compilation of the existing data designated in this~~
23 ~~section,~~

1 ~~b. information available on private sector interest,~~
2 ~~involvement or plans for development of child care in~~
3 ~~this state, and~~

4 ~~e. information from child care resource and referral~~
5 ~~programs about the numbers of inquiries received from~~
6 ~~parents and businesses.~~

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

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

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

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

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

- 10 a. document the complaint,
- 11 b. provide the complaint allegations and all information
12 gathered by the Department as allowed by state and
13 federal law in writing to the facility involved, and
- 14 c. document the facility's plan for correcting any
15 confirmed violations.

16 2. If the Department determines ~~that~~ there has been a violation
17 and ~~that~~ the violation has a direct impact on the health, safety or
18 well-being of one or more of the children cared for by the facility,
19 the Department shall notify the facility and require correction of
20 the violation.

21 3. The Department shall notify the facility that failure to
22 correct the confirmed violation can result in the revocation of the
23 license, the denial of an application for a license, or the filing
24

1 of an injunction pursuant to the provisions of Section 409 of this
2 title.

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

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

19 E. Information obtained by the Department or the Office of
20 Child Care concerning a report of a violation of a licensing
21 requirement, or from any licensee regarding children or their
22 parents or other relatives shall be deemed confidential and
23 privileged communications, shall be properly safeguarded, and shall
24 not be accessible to anyone except as herein provided, unless upon

1 order of a court of competent jurisdiction. Provided, however, this
2 provision shall not prohibit the Department from providing a summary
3 of allegations and findings of an investigation involving a child
4 care facility that does not disclose identities but that permits
5 parents to evaluate the facility.

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

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

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

17 2. At the time the facility is given notice in writing of the
18 revocation or denial of a license, the Department shall also advise
19 parents of children attending the facility and the child care
20 resource and referral organization within one (1) business day of
21 such action by verbal or written notification and the posting of an
22 announcement in the facility.

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

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

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

9 5. If notice of the proposed revocation or denial of a license
10 is not ~~so~~ protested, the license may ~~thereupon~~ be immediately
11 revoked or denied.

12 C. 1. For the purposes of this subsection, "emergency" means a
13 situation that poses a direct and serious threat to the health,
14 safety, or welfare of any child cared for by the facility.

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

18 ~~2-~~ 3. Whenever the Department finds, after an investigation,
19 that an emergency exists requiring immediate action to protect the
20 health, safety, or welfare of any child cared for by a facility
21 licensed, ~~or~~ authorized, or providing unlicensed care pursuant to
22 the provisions of the Oklahoma Child Care Facilities Licensing Act,
23 the Department may without notice or hearing issue an emergency
24 order stating the existence of such an emergency and requiring that

1 such action be taken as it deems necessary to meet the emergency
2 including, when necessary, removing children from the facility and
3 prohibiting the facility from providing services to children pending
4 a hearing on the matter.

5 a. ~~Such~~ An emergency order shall be effective
6 immediately. Any person to whom ~~such~~ an emergency
7 order is directed shall comply with the emergency
8 order immediately but, upon written request to the
9 Department on or before the tenth day after receipt of
10 the emergency order, shall be afforded a hearing on or
11 before the tenth day after receipt of the request by
12 the Department.

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

16 c. Any person aggrieved by ~~such~~ the order continued after
17 the hearing provided for in this subsection may appeal
18 to the district court of the area affected within
19 ~~thirty (30)~~ ten (10) days. ~~Such~~ The appeal when
20 docketed shall have priority over all cases pending on
21 the docket, except criminal cases. ~~For the purposes~~
22 ~~of this subsection, the term "emergency" shall mean a~~
23 ~~situation that poses a direct and serious hazard to~~

24

1 ~~the health, safety or welfare of any child cared for~~
2 ~~by the facility.~~

3 D. The Department shall establish a process to review the
4 initial determination of the closure of a facility due to an
5 emergency pursuant to the licensing requirements promulgated by the
6 Commission.

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

11 F. In addition to any other remedy authorized by this act, a
12 CLEET-certified officer may issue a citation for a violation of any
13 provision of this act or rules of the Commission for Human Services
14 as provided in Section 404 of this title of not less than One
15 Hundred Dollars (\$100.00) nor more than Five Hundred Dollars
16 (\$500.00) for every day the facility maintains and receives children
17 after:

- 18 1. An emergency order has been issued; or
19 2. An application for a license has been denied or the license
20 has been revoked.

21 G. One-half (1/2) of the funds collected pursuant to subsection
22 F of this section shall be deposited in the Quality of Care
23 Development Fund established in Section 10 of this act and one-half
24

1 (1/2) shall be retained by the law enforcement agency represented by
2 the CLEET-certified officer.

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

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

9 1. The name, address, and phone number of all licensed child
10 care centers, and the name, city, state and ZIP Code of all child
11 care homes; and

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

14 B. Child care licensing records and inspection reports shall be
15 maintained by the facility and be posted or made available to the
16 past, current, and prospective consumers pursuant to the licensing
17 requirements promulgated by the Commission.

18 C. The Department of Human Services shall develop, by July 1,
19 2011, a web-based assessment tool for the public to evaluate
20 compliance of child care center, child care home, and large family
21 child care home compliance with requirements based upon a numerical
22 score.

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

4 A. The Commission for Human Services shall promulgate rules to
5 establish and maintain a child care abuse registry, accessible to
6 the public through an on-line database, that address:

7 1. A procedure for noting in the registry a finding of abuse or
8 neglect, as defined in Section 7102 of Title 10 of the Oklahoma
9 Statutes, by a person when the abuse or neglect occurred to children
10 in the care of a child care facility;

11 2. A procedure to provide notice and an opportunity for review
12 for a person before a finding is added into the record;

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

14 4. A procedure to restrict licensure, ownership, employment and
15 the physical presence of any person entered in the child care abuse
16 registry for a minimum period of five (5) years from the date of
17 final finding.

18 B. Any person aggrieved by the decision of the Department of
19 Human Services pursuant to this section may, within ten (10) days
20 after a finding of abuse or neglect has been determined pursuant to
21 this section, appeal to the district court of the county in which
22 the abuse or neglect occurred. Notice of the appeal shall be served
23 on the Director of the Department within five (5) days of the date
24 of filing.

1 C. The aggrieved party shall, within ten (10) days of the
2 service of notice, file with the clerk of the court a transcript of
3 the proceedings held before the Department. The district court
4 shall thereupon be vested with the jurisdiction to review the
5 proceedings of the Department; provided, that if the Department
6 prevails, the district court shall affirm the decision of the
7 Department, and if the plaintiff prevails, the court shall set aside
8 the finding of inclusion in the child care abuse registry. Pending
9 hearing of the appeal, the finding of inclusion in the child care
10 abuse registry shall be stayed; provided, the court may grant an
11 order to enforce the decision of the Department upon application by
12 the Department and after appropriate hearing.

13 D. The child care abuse registry shall include, but not be
14 limited to:

- 15 1. The full name of the individual;
- 16 2. Information necessary to identify the individual;
- 17 3. The date that the information of the individual was entered
18 into the registry; and
- 19 4. Information on any final finding of abuse or neglect of a
20 child concerning the individual.

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

24

1 There is established in the State Treasury a revolving fund to
2 be known as the "Quality of Care Development Fund". The fund shall
3 be a continuing fund, not subject to fiscal year limitations, and
4 shall consist of all fines collected by the Department of Human
5 Services and shall, in addition to any other monies made available
6 for such purpose, be available to the Director solely to support the
7 continued improvement of the child care facilities in this state.
8 Expenditures from the fund shall be made upon warrants issued by the
9 State Treasurer against claims filed as prescribed by law with the
10 Director of State Finance for approval and payment.

11 SECTION 11. It being immediately necessary for the preservation
12 of the public peace, health and safety, an emergency is hereby
13 declared to exist, by reason whereof this act shall take effect and
14 be in full force from and after its passage and approval.

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