ENGROSSED HOUSE
BILL NO. 2643

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

and

Anderson of the Senate

(children - Oklahoma Child Care Licensing Facilities Act - fingerprint check - child care abuse registry search - child care informational database - child care abuse registry - Quality of Child Development Fund - codification - noncodification - emergency)

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

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

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

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

Section 404. A. The Department of Human Services shall appoint advisory committees ~~of representatives~~ with at least fifty percent (50%) of members being owners and operators of child care facilities ~~and others~~ to prepare minimum requirements and desirable standards for promulgation by the Commission for Human Services. Committee members shall be appointed for a three-year term, with a two-term limit. A majority of any committee appointed to prepare requirements and standards for child care facilities shall be ~~representatives~~ owners and operators of child care facilities.

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.

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

D. 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.

~~D.~~ E. 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.

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

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

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

facility, ~~and that meet~~ meeting 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~~ the child care facility.

SECTION 3. AMENDATORY 10 O.S. 2001, Section 404.1, as amended by Section 1, Chapter 213, O.S.L. 2003 (10 O.S. Supp. 2007, 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 to be paid for by the facility, ~~for any person making application to establish or operate a child care facility prior to the issuance of a license to operate such facility~~ a national criminal history records search based upon submission of fingerprints to be paid for by the Department and a records search of the Oklahoma child care abuse registry established in Section 9 of this act.

2. a. ~~Every~~ Prior to the employment of any person in a child care facility, the facility shall ~~arrange, prior to employment, for~~ submit 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~~ and documentation of a records search of the Oklahoma child care abuse registry

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

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

c. For any person eighteen (18) years of age or older being allowed to reside in a child care facility~~, licensed or approved pursuant to the Oklahoma Child Care Facilities Licensing Act, and located in a private residence,~~ the facility shall ~~arrange for~~ submit 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~~ conducted by the Oklahoma State Bureau of

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

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

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.~~

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

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 subparagraph, 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 subparagraph,

(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 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 subparagraph, 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 subparagraph, 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 of 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~~ foster family home.

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~~ residing in a child care center ~~or~~, family child care home ~~operator~~, or large family child care home licensee 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~~ pursuant to applicable state or federal law.

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 of the individual 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 unless deemed confidential by state or federal law.

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~~ records search conducted by the Oklahoma State Bureau of Investigation and a 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,

(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 4. AMENDATORY 10 O.S. 2001, 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~~ the facility will meet minimum standards for a license to operate.

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

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

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

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

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

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

D. 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.~~ E. 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, as long as the requirements provided for in subsection B of this section are satisfied. ~~If~~ The Department may issue a license once it is satisfied that the applicant meets the requirements as provided in this act~~, a license shall be issued~~. A provisional license may be issued upon satisfaction of the requirements of subsection B of this section 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 unless revoked as authorized by Section 407 of this title; provided, however, a provisional license may be in force for not

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

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

Section 405.1 A. The Department of Human Services shall collaborate with other appropriate agencies to develop ~~by December 31, 1998,~~ a comprehensive ~~strategic~~ Oklahoma state plan for child care ~~facilities~~.

B. The comprehensive ~~strategic~~ plan shall:

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

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

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

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

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

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

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

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

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

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

~~c. ages served,~~

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

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

~~f. program rates;~~

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

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

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

~~c. families eligible for child care subsidies;~~

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

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

~~b. health and safety grants,~~

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

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

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

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

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

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

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

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

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

SECTION 6. AMENDATORY 10 O.S. 2001, Section 406, as amended by Section 3, Chapter 187, O.S.L. 2004 (10 O.S. Supp. 2007, 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 the complaint allegations <u>and all information gathered by the Department as allowed by state and federal law</u> in writing to the facility involved, and

c. document the facility's plan for correcting 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 notify the facility and require correction of the violation.

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

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

Section 407. A. The Department of Human Services may revoke or 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 Commission for Human Services, as provided in Section 404 of this title.

B. 1. No license shall be revoked or issuance 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~~ the proposed revocation or refusal.

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

3. If ~~such~~ the revocation or 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~~ the licensee or applicant to present testimony and confront witnesses.

4. Notice of ~~such~~ the hearing shall be given to ~~such~~ the 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 denial of a license is not ~~so~~ protested, the license may ~~thereupon~~ be immediately revoked or denied.

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

2. 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.~~ 3. 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, or providing unlicensed care 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~~ An emergency order shall be effective immediately. Any person to whom ~~such~~ an emergency order is directed shall comply with the emergency order immediately but, upon written request to the Department on or before the tenth day after receipt of the emergency order, shall be afforded a hearing on or before the tenth day after receipt of the request by the Department.

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

c. Any person aggrieved by ~~such~~ the order continued after the hearing provided for in this subsection may appeal to the district court of the area affected within ~~thirty (30)~~ ten (10) days. ~~Such~~ The appeal when docketed shall have priority over all cases pending on 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.~~

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

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

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

1. An emergency order has been issued; or

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

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

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

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

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

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

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

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

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

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

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

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

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

3. Disclosure requirements for information in the registry; and

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

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

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

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

1. The full name of the individual;

2. Information necessary to identify the individual;

3. The date that the information of the individual was entered into the registry; and

4. Information on any final finding of abuse or neglect of a child concerning the individual.

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

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

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

Passed the House of Representatives the 11th day of March, 2008.

_____
Presiding Officer of the House of Representatives

Passed the Senate the ____ day of _____, 2008.

_____
Presiding Officer of the Senate