

THE HOUSE OF REPRESENTATIVES
Thursday, March 6, 2008

Committee Substitute for
House Bill No. 2643

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 2643 - By: PETERS, BIGHORSE, JOHNSON (DENNIS), KERN, PITTMAN, ROUSSELOT AND SHUMATE 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:

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

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

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

1 Section 404. A. The Department of Human Services shall appoint advisory
2 committees ~~of representatives~~ with at least fifty percent (50%) of members being owners
3 and operators of child care facilities ~~and others~~ to prepare minimum requirements and
4 desirable standards for promulgation by the Commission for Human Services.

5 Committee members shall be appointed for a three-year term, with a two-term limit. A
6 majority of any committee appointed to prepare requirements and standards for child
7 care facilities shall be ~~representatives~~ owners and operators of child care facilities.

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

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

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

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

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

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

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

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

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

21 Section 404.1 A. 1. Except as otherwise provided by subsection B of this section,
22 the Department of Human Services shall require a criminal history records search,

1 conducted by the Oklahoma State Bureau of Investigation to be paid for by the facility,
2 ~~for any person making application to establish or operate a child care facility prior to the~~
3 ~~issuance of a license to operate such facility~~ a national criminal history records search
4 based upon submission of fingerprints to be paid for by the Department and a records
5 search of the Oklahoma child care abuse registry established in Section 9 of this act.

6 2. a. ~~Every~~ Prior to the employment of any person in a child care facility,
7 the facility shall arrange, prior to employment, for submit a criminal
8 history records search to be conducted by the Oklahoma State Bureau
9 of Investigation for any person to be employed by the child care facility
10 and documentation of a records search of the Oklahoma child care
11 abuse registry established in Section 9 of this act to the Oklahoma
12 Department of Human Services.

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

21 c. For any person eighteen (18) years of age or older being allowed to
22 reside in a child care facility, licensed or approved pursuant to the

1 ~~Oklahoma Child Care Facilities Licensing Act, and located in a private~~
2 ~~residence, the facility shall arrange for submit a criminal history~~
3 ~~records search for any adult residing in the child care facility. A~~
4 ~~criminal history records search conducted by the Oklahoma State~~
5 ~~Bureau of Investigation shall also be completed for any adult who~~
6 ~~subsequently moves into the private residence conducted by the~~
7 ~~Oklahoma State Bureau of Investigation and documentation of a~~
8 ~~records search of the child care abuse registry to the Department.~~

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

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

20 4. The Department of Juvenile Justice may directly request national criminal
21 history records searches as defined by Section 150.9 of Title 74 of the Oklahoma Statutes
22 from the Oklahoma State Bureau of Investigation for the purpose of obtaining the

1 national criminal history of any employee or applicant who has resided in Oklahoma for
2 less than one (1) year for which a search is required.

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

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

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

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

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

- 1 (3) a national criminal history records search based upon
2 submission of fingerprints to the Oklahoma State Bureau of
3 Investigation shall also be completed for any adult who
4 subsequently moves into the residence,
- 5 (4) provided, however, the Director of Human Services or the
6 Director of the Department of Juvenile Justice, or a designee,
7 may authorize an exception to the fingerprinting requirement
8 for a person residing in the home who has a severe physical
9 condition which precludes such person's being fingerprinted, and
- 10 (5) any child care facility contracting with any person for foster
11 family home services shall request the Office of Juvenile Affairs
12 to conduct a juvenile justice information system review,
13 pursuant to the provisions of Sections 7302-9.6 and 7302-3.8 of
14 this title, for any child over the age of thirteen (13) years
15 residing in the foster family home, other than a foster child, or
16 who subsequently moves into the private residence. As a
17 condition of contract, the child care facility shall obtain the
18 consent of the parent or legal guardian of the child for such
19 review.
- 20 b. The provisions of this paragraph shall not apply to foster care
21 providers having a contract or contracting with a child-placing agency,
22 the Department of Human Services or the Department of Juvenile

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

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

16 (2) The Department of Human Services and Department of Juvenile
17 Justice may place a child pending completion of the national
18 criminal history records search if the foster care provider and
19 every adult residing in the foster family home has resided in this
20 state for at least (5) years immediately preceding such
21 placement.

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

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

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

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

20 C. The Commission for Human Services or the Board of Juvenile Affairs shall
21 promulgate rules to identify circumstances when a criminal history records search or
22 foster parent eligibility assessment for an applicant or contractor, or any person over the

1 age of thirteen (13) years residing in a private residence in which a child care facility is
2 located, shall be expanded beyond the records search conducted by the Oklahoma State
3 Bureau of Investigation or as otherwise provided pursuant to this section.

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

- 7 a. a parent volunteer who transports children on an irregular basis, and
- 8 b. a child ~~of~~ residing in a child care center ~~or~~, family child care home
9 operator, or large family child care home licensee who became an adult
10 during continuous residence at the licensed or approved facility.

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

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

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

1 2. ~~Whenever an applicant is subsequently employed by or contracts with a child~~
2 ~~care facility, the information received pursuant to a criminal history records search,~~
3 ~~foster parent eligibility assessment, or a national criminal history records search based~~
4 ~~upon submission of fingerprints shall not be made a part of that individual's personnel or~~
5 ~~contract records but shall be maintained pursuant to this subsection.~~ The information,
6 along with any other information relevant to the individual's ability of the individual to
7 perform tasks that require direct contact with children, may be released to another child
8 care facility in response to a request from the child care facility that is considering
9 employing or contracting with the individual unless deemed confidential by state or
10 federal law.

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

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

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

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

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

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

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

21 SECTION 4. AMENDATORY 10 O.S. 2001, Section 405, is amended to read as

22 follows:

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

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

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

15 2. All required training including, but not limited to, cardiopulmonary resuscitation
16 (CPR), first aid, health and safety training, and minimum education requirements
17 pursuant to licensing requirements have been completed by employees having direct
18 contact with children with documentation of proof provided to the Department; and

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

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

1 D. The incorporation or domestication of a corporation organized for the purpose of
2 operating a child care facility shall not exempt such corporation from compliance with
3 the provisions of this act.

4 ~~B. E.~~ An application for a license shall be made on forms provided by the
5 Department and in the manner prescribed. Temporary authorization may be granted to
6 allow the Department to investigate the activities and standards of care of the applicant,
7 as long as the requirements provided for in subsection B of this section are satisfied. ~~If~~
8 The Department may issue a license once it is satisfied that the applicant meets the
9 requirements as provided in this act, ~~a license shall be issued.~~ A provisional license may
10 be issued upon satisfaction of the requirements of subsection B of this section to any
11 applicant whose services are needed but which is temporarily unable to conform to all the
12 rules of the Department, as provided in Section 404 of this title. All licenses shall be in
13 force unless revoked as authorized by Section 407 of this title; provided, however, a
14 provisional license may be in force for not more than one (1) year from the date of
15 issuance, unless an emergency exists which, in the discretion of the Department,
16 necessitates an extension thereof.

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

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

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

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

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

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

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

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

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

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

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

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

2 f. ~~program rates;~~

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

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

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

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

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

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

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

13 e. ~~start-up and capital grants,~~

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

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

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

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

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

- 4 a. ~~a compilation of the existing data designated in this section,~~
5 b. ~~information available on private sector interest, involvement or plans~~
6 ~~for development of child care in this state, and~~
7 c. ~~information from child care resource and referral programs about the~~
8 ~~numbers of inquiries received from parents and businesses.~~

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

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

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

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

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

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

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

17 3. The Department shall notify the facility that failure to correct the confirmed
18 violation can result in the revocation of the license, the denial of an application for a
19 license, or the filing of an injunction pursuant to the provisions of Section 409 of this
20 title.

21 4. If the facility refuses to correct ~~the~~ a violation or fails to complete the plan of
22 correction, the Department may ~~initiate proceedings to~~ issue an emergency order, revoke

1 the license, ~~refuse to issue or renew a license, and request an injunction~~ or deny the
2 application for a license. Nothing in this section or Section 407 of this title shall be
3 construed as preventing the Department from revoking or denying a license for a single
4 violation of this act, or the rules of the Commission for Human Services as provided in
5 Section 404 of this title.

6 D. Upon the completion of the investigation of a complaint against any child care
7 facility alleging a violation of the provisions of the Oklahoma Child Care Facilities
8 Licensing Act or any licensing standard promulgated thereto by the Commission, the
9 Department shall clearly designate its findings on the first page of the report of the
10 investigation. The findings shall state whether the complaint was substantiated or
11 unsubstantiated.

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

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

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

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

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

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

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

21 5. If notice of the proposed revocation or denial of a license is not ~~se~~ protested, the
22 license may ~~thereupon~~ be immediately revoked or denied.

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

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

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

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

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

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

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

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

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

20 1. An emergency order has been issued; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

21 C. The aggrieved party shall, within ten (10) days of the service of notice, file with
22 the clerk of the court a transcript of the proceedings held before the Department. The

1 district court shall thereupon be vested with the jurisdiction to review the proceedings of
2 the Department; provided, that if the Department prevails, the district court shall affirm
3 the decision of the Department, and if the plaintiff prevails, the court shall set aside the
4 finding of inclusion in the child care abuse registry. Pending hearing of the appeal, the
5 finding of inclusion in the child care abuse registry shall be stayed; provided, the court
6 may grant an order to enforce the decision of the Department upon application by the
7 Department and after appropriate hearing.

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

- 9 1. The full name of the individual;
- 10 2. Information necessary to identify the individual;
- 11 3. The date that the information of the individual was entered into the registry;
- 12 and
- 13 4. Information on any final finding of abuse or neglect of a child concerning the
14 individual.

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

18 There is established in the State Treasury a revolving fund to be known as the
19 "Quality of Care Development Fund". The fund shall be a continuing fund, not subject to
20 fiscal year limitations, and shall consist of all fines collected by the Department of
21 Human Services and shall, in addition to any other monies made available for such
22 purpose, be available to the Director solely to support the continued improvement of the

1 child care facilities in this state. Expenditures from the fund shall be made upon
2 warrants issued by the State Treasurer against claims filed as prescribed by law with the
3 Director of State Finance for approval and payment.

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

7 COMMITTEE REPORT BY: COMMITTEE ON HUMAN SERVICES, dated 03-05-08 -
8 DO PASS, As Amended and Coauthored.