

1 STATE OF OKLAHOMA

2 1st Session of the 52nd Legislature (2009)

3 COMMITTEE SUBSTITUTE

4 FOR

5 HOUSE BILL NO. 1742

6 By: Peters

7 COMMITTEE SUBSTITUTE

8 An Act relating to children; amending 10 O.S. 2001,  
9 Section 401, as amended by Section 1, Chapter 158,  
10 O.S.L. 2002 (10 O.S. Supp. 2008, Section 401), which  
11 relates to the Oklahoma Child Care Facilities  
12 Licensing Act; correcting statutory reference;  
13 amending 10 O.S. 2001, Section 402, which relates to  
14 definitions; modifying definitions; amending 10 O.S.  
15 2001, Section 403, as amended by Section 1, Chapter  
16 187, O.S.L. 2004 (10 O.S. Supp. 2008, Section 403),  
17 which relates to exemptions from application of act;  
18 modifying exemptions; amending 10 O.S. 2001, Section  
19 404, as last amended by Section 2, Chapter 296,  
20 O.S.L. 2008 (10 O.S. Supp. 2008, Section 404), which  
21 relates to minimum requirements and desirable  
22 standards; eliminating specific required standards;  
23 eliminating provision allowing certain homes to be  
24 maintained on the basis of permits; amending 10 O.S.  
2001, Section 404.1, as last amended by Section 3,  
Chapter 296, O.S.L. 2008 (10 O.S. Supp. 2008, Section  
404.1), which relates to a criminal history records  
search; requiring an Oklahoma State Courts Network  
search for certain persons; exempting specific  
persons from certain requirement; amending 10 O.S.  
2001, Section 405, as amended by Section 4, Chapter  
296, O.S.L. 2008 (10 O.S. Supp. 2008, Section 405),  
which relates to the issuance of a license;  
eliminating issuance of a provisional license;  
amending 10 O.S. 2001, Section 406, as last amended  
by Section 6, Chapter 296, O.S.L. 2008 (10 O.S. Supp.  
2008, Section 406), which relates to investigations;  
modifying agency division designation; repealing 10  
O.S. 2001, Section 419, which relates to a report to  
the Governor and reports to the Director of Human

1 Services; repealing 10 O.S. 2001, Section 430, which  
2 relates to augmentation of the STARS child care  
3 component; and providing an effective date.  
4

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

6 SECTION 1. AMENDATORY 10 O.S. 2001, Section 401, as  
7 amended by Section 1, Chapter 158, O.S.L. 2002 (10 O.S. Supp. 2008,  
8 Section 401), is amended to read as follows:

9 Section 401. A. Sections 401 through ~~410~~ 418 of this title  
10 shall be known and may be cited as the "Oklahoma Child Care  
11 Facilities Licensing Act".

12 B. It is the declared purpose and policy of the Oklahoma Child  
13 Care Facilities Licensing Act, to:

14 1. Ensure maintenance of minimum standards for the care and  
15 protection of children away from their own homes;

16 2. Encourage and assist the child care facility toward maximum  
17 standards; and

18 3. Work for the development of sufficient and adequate services  
19 for child care through joint work of public, private and voluntary  
20 agencies. Whenever possible, child care facilities should help to  
21 preserve and restore family life for children.

22 C. In order to provide care for children in child care  
23 facilities, a license shall be obtained from the Department of Human  
24 Services, which is issued on the basis of meeting minimum standards

1 which are essential for the health and welfare of the child or  
2 children placed for care with such agencies and individuals.

3 D. The Child Care Facilities Licensing Division within the  
4 Department of Human Services shall work with representatives from  
5 municipalities to develop a single child care licensure procedure  
6 for use by state and local entities.

7 SECTION 2. AMENDATORY 10 O.S. 2001, Section 402, is  
8 amended to read as follows:

9 Section 402. As used in the Oklahoma Child Care Facilities  
10 Licensing Act:

11 1. "Child" or "minor" means any person who has not attained the  
12 age of eighteen (18) years;

13 2. "Child care center" means a facility which provides care and  
14 supervision for children and which operates for more than thirty  
15 (30) hours per week;

16 3. "Child care facility" means any public or private child care  
17 residential facility, child-placing agency, ~~foster family home,~~  
18 ~~group home,~~ child care center, part-day child care program, school-  
19 age program, summer day camp, family child care home, or large  
20 family child care home providing either full-time or part-time care  
21 for children away from their own homes;

22 ~~3.~~ 4. "Child-placing agency" means ~~a child welfare agency~~  
23 ~~licensed to place children in foster family homes, group homes or~~  
24 ~~adoptive homes~~

1       ~~4. "Full-time care" means continuous care given to a child~~  
2 ~~beyond a minimum period of twenty four (24) hours;~~

3       ~~5. "Foster family home" means the private residence of a family~~  
4 ~~which provides foster care services to a child, and includes a~~  
5 ~~specialized foster home, a therapeutic foster family home, or a~~  
6 ~~kinship care home;~~

7       ~~6. "Foster parent eligibility assessment" includes a criminal~~  
8 ~~background investigation, including, but not limited to, a national~~  
9 ~~criminal history records search based upon the submission of~~  
10 ~~fingerprints, a home assessment, and any other assessment required~~  
11 ~~by the Department of Human Services, the Department of Juvenile~~  
12 ~~Justice, or any child placing agency pursuant to the provisions of~~  
13 ~~the Oklahoma Foster Care and Out-of-Home Placement Act. A foster~~  
14 ~~parent eligibility assessment shall be similar to the procedures~~  
15 ~~used by the Department of Public Safety for determining suitability~~  
16 ~~of an individual for employment as a highway patrol officer;~~

17       ~~7. "Group home" means a home providing full-time care and~~  
18 ~~community based services for more than five, but fewer than thirteen~~  
19 ~~children an agency that arranges for or places a child in a foster~~  
20 ~~family home, adoptive home, or independent living program;~~

21       ~~5. "Commission" means the Commission for Human Services, the~~  
22 ~~policymaking and general supervisory body of the Department;~~

23       ~~6. "Department" means the Department of Human Services;~~

1        7. "Division" means the section within the Department that is  
2 assigned responsibilities pursuant to the provisions of the Oklahoma  
3 Child Care Facilities Licensing Act;

4        8. "Family child care home" means a family home which provides  
5 care and supervision for seven or fewer children for part of the  
6 twenty-four-hour day. The term "family child care home" shall not  
7 include informal arrangements which parents make independently with  
8 neighbors, friends, and others, or with caretakers in the child's  
9 own home;

10       9. "Full-time care" means continuous care given to a child  
11 beyond a minimum period of twenty-four (24) hours;

12       10. "Large family child care home" means a residential family  
13 home which provides care and supervision for eight to twelve  
14 children for part of the twenty-four-hour day;

15       ~~10. "Child care center" means a facility which provides care~~  
16 ~~and supervision for children and which operates for more than thirty~~  
17 ~~(30) hours per week. The term "child care center" shall not include~~  
18 ~~informal arrangements which parents make independently with~~  
19 ~~neighbors, friends, and others, or with caretakers in the child's~~  
20 ~~own home;~~

21       11. "Part-day child care program" means a facility that  
22 provides care and supervision for children and that operates for  
23 more than fifteen (15) and up to thirty (30) hours per week; and  
24

1 12. "Residential child care facility" means a twenty-four-hour  
2 residential facility where children live together with or are  
3 supervised by adults who are not their parents or relatives;

4 ~~13. "Department" means the Department of Human Services;~~

5 ~~14. "Commission" means the Commission for Human Services, the~~  
6 ~~policy making and general supervisory body of the Department; and~~

7 ~~15. "Division" means the section within the Department that is~~  
8 ~~assigned responsibilities pursuant to the provisions of the Oklahoma~~  
9 ~~Child Care Facilities Licensing Act.~~

10 SECTION 3. AMENDATORY 10 O.S. 2001, Section 403, as  
11 amended by Section 1, Chapter 187, O.S.L. 2004 (10 O.S. Supp. 2008,  
12 Section 403), is amended to read as follows:

13 Section 403. A. The provisions of the Oklahoma Child Care  
14 Facilities Licensing Act shall not apply to:

15 1. Care provided in a child's own home or by relatives;

16 2. Informal arrangements which parents make with friends or  
17 neighbors for the occasional care of their children, or an informal  
18 arrangement in which a friend or neighbor cares for siblings or  
19 other persons who are from the same immediate household;

20 3. Programs in which school-aged children are participating in  
21 home-schooling;

22 4. Programs that serve children three (3) years of age and  
23 older and that are operated during typical school hours by a public  
24 school district;

1           5. Programs that serve children three (3) years of age and  
2 older and that are operated during typical school hours by a private  
3 school that offers elementary education in grades kindergarten  
4 through third grade;

5           6. Summer youth camps for children who are at least five (5)  
6 years of age, that are accredited by a national standard-setting  
7 agency or church camp accreditation program;

8           7. Programs in which children attend on a drop-in basis and  
9 parents are on the premises and readily accessible;

10          8. A program of specialized activity or instruction for  
11 children that is not designed or intended for child care purposes  
12 including, but not limited to, scouts, 4-H clubs and summer resident  
13 youth camps, and single-activity programs such as academics,  
14 athletics, gymnastics, hobbies, art, music, dance and craft  
15 instruction;

16          9. ~~Preschools, kindergartens, mother's day out or other~~  
17 ~~facilities~~ Any child care facility that ~~provide~~ provides care and  
18 supervision for fifteen (15) or fewer hours per week;

19          10. Facilities whose primary purpose is medical treatment;

20          11. Boarding schools that have education as their primary  
21 purpose and that are recognized as accredited by the State Board of  
22 Education. To be exempt, such programs shall:

23           a. have classroom facilities that are not used for  
24                residential living,

- 1           b. not have been granted nor have assumed legal custody  
2           of any child attending the facility, and  
3           c. adhere to standard educational holiday and seasonal  
4           recess periods to permit students reasonable  
5           opportunities to return to their primary places of  
6           residence with parents or legal guardians-

7 ~~For purposes of this act, the Oklahoma School of Science and~~  
8 ~~Mathematics shall be considered a boarding school and as such shall~~  
9 ~~be exempt from licensure;~~

10           12. Day treatment programs and maternity homes operated by a  
11 licensed hospital; or

12           13. Juvenile facilities certified by the Office of Juvenile  
13 Affairs or certified by any other state agency authorized by law to  
14 license such facilities.

15           B. The provisions of the Oklahoma Child Care Facilities  
16 Licensing Act shall be equally incumbent upon all private and public  
17 child care facilities.

18           SECTION 4.           AMENDATORY           10 O.S. 2001, Section 404, as last  
19 amended by Section 2, Chapter 296, O.S.L. 2008 (10 O.S. Supp. 2008,  
20 Section 404), is amended to read as follows:

21           Section 404. A. The Department of Human Services shall appoint  
22 advisory committees of representatives of child care facilities and  
23 others to prepare minimum requirements and desirable standards for  
24 promulgation by the Commission for Human Services.   Committee

1 members shall be appointed for a three-year term, with a two-  
2 consecutive-term limit. A majority of any committee appointed to  
3 prepare requirements and standards for child care facilities shall  
4 be representatives of child care facilities.

5 ~~B. Standards promulgated for residential child care facilities~~  
6 ~~shall include, but not be limited to, requirements for:~~

7 ~~1. A constructive program and services to meet the needs of~~  
8 ~~each child and family;~~

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

10 ~~3. Adequate and safe housing, sanitation, and equipment;~~

11 ~~4. Good health care;~~

12 ~~5. Full educational and religious opportunities;~~

13 ~~6. Good community relationships;~~

14 ~~7. Essential records and administrative methods; and~~

15 ~~8. Sufficient funds for sound operation.~~

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

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

22 ~~E.~~ D. Such rules shall not be promulgated until after  
23 consultation with the State Department of Health, the State  
24 Department of Education, the Oklahoma State Bureau of Investigation,

1 the State Fire Marshal, and any other agency deemed necessary by the  
2 Commission. Not less than sixty (60) days' notice, by regular mail,  
3 shall be given to all current licensees before any changes are made  
4 in such rules.

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

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

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

19 SECTION 5. AMENDATORY 10 O.S. 2001, Section 404.1, as  
20 last amended by Section 3, Chapter 296, O.S.L. 2008 (10 O.S. Supp.  
21 2008, Section 404.1), is amended to read as follows:

22 Section 404.1

23 A. 1. a. Except as otherwise provided by subsection B of this  
24 section, prior to the issuance of a license, the

1 Department of Human Services shall require a criminal  
2 history records search, conducted by the Oklahoma  
3 State Bureau of Investigation, and a records search of  
4 the Oklahoma child care worker registry established in  
5 Section ~~9~~ 405.3 of this ~~act~~ title for any person  
6 making application to establish or operate a child  
7 care facility.

8 b. Prior to the issuance of a permit or license, the  
9 Department shall conduct a records search of the  
10 Oklahoma State Courts Network for any person making  
11 application to establish or operate a child care  
12 facility.

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

20 2. a. Prior to the employment of any person in a child care  
21 facility, the facility shall submit to the Department  
22 of Human Services division responsible for child care  
23 licensing:

- 1           (1) a criminal history records search conducted by  
2           the Oklahoma State Bureau of Investigation ~~and,~~  
3           (2) documentation of a records search of the Oklahoma  
4           child care worker registry ~~to the Oklahoma~~  
5           ~~Department of Human Services division responsible~~  
6           ~~for child care licensing, and~~  
7           (3) a request for the Department to conduct a records  
8           search of the records of the Oklahoma State  
9           Courts Network.

10        b. ~~Prior to the employment of any person in a child care~~  
11        ~~facility, the Department shall conduct a records~~  
12        ~~search of the Oklahoma State Courts Network for that~~  
13        ~~person~~ Hospitals and psychiatric residential treatment  
14        facilities that comply with records searches required  
15        by subparagraph a of this paragraph shall be exempt  
16        from the requirement to submit the documentation to  
17        the Department.

18        c. ~~The Department shall conduct a records search of the~~  
19        ~~Oklahoma State Courts Network for all employees and~~  
20        ~~persons eighteen (18) years of age or older residing~~  
21        ~~in a child care center, family child care home, large~~  
22        ~~family child care home, part day program, school age~~  
23        ~~program, or summer day camp program.~~

1           ~~d.~~ Prior to allowing any person eighteen (18) years of  
2 age or older to reside in a child care center, family  
3 child care home, large family child care home, part-  
4 day program, school-age program, or summer day camp  
5 program the facility shall submit to the Department of  
6 Human Services division responsible for child care  
7 licensing the following:

8           (1) ~~the facility shall submit to the Department of~~  
9 ~~Human Services division responsible for child~~  
10 ~~care licensing~~ a criminal history records search  
11 conducted by the Oklahoma State Bureau of  
12 Investigation ~~and,~~

13           (2) documentation of a records search of the Oklahoma  
14 child care worker registry, and

15           ~~(2)~~ (3) a request for the Department ~~shall~~ to conduct a  
16 records search of the Oklahoma State Courts  
17 Network.

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

23           4. If the following persons have lived in Oklahoma for less  
24 than three (3) years, a criminal history records search shall also

1 be obtained from the authorized agency in the previous states of  
2 residence for:

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

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

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

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

23 (a) a foster parent eligibility assessment for  
24 the foster care provider except as otherwise

1 provided by divisions 2 and 4 of this  
2 subparagraph, and

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

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

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

23 (4) provided, however, the Director of Human Services  
24 or the Director of the Department of Juvenile

1 Justice, or a designee, may authorize an  
2 exception to the fingerprinting requirement for a  
3 person residing in the home who has a severe  
4 physical condition which precludes such person's  
5 being fingerprinted, and

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

18 b. The provisions of this paragraph shall not apply to  
19 foster care providers having a contract or contracting  
20 with a child-placing agency, the Department of Human  
21 Services or the Department of Juvenile Justice prior  
22 to September 1, 1998. Such existing foster care  
23 providers shall comply with the provisions of this  
24

1 section, until otherwise provided by rules of the  
2 Commission for Human Services or by law.

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

19 (2) The Department of Human Services and Department  
20 of Juvenile Justice may place a child pending  
21 completion of the national criminal history  
22 records search if the foster care provider and  
23 every adult residing in the foster family home  
24

1 has resided in this state for at least (5) years  
2 immediately preceding such placement.

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

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

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

22 3. Each Department shall provide for a juvenile justice  
23 information system review pursuant to Section 7302-3.8 of this title  
24 for any child over the age of thirteen (13) years residing in a

1 foster family home, other than the foster child, or who subsequently  
2 moves into the foster family home.

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

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

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

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

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

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

7 F. 1. Information received pursuant to this section by an  
8 owner or administrator of a child care facility shall be maintained  
9 in a confidential manner pursuant to applicable state or federal  
10 law.

11 2. The information, along with any other information relevant  
12 to the ability of the individual to perform tasks that require  
13 direct contact with children, may be released to another child care  
14 facility in response to a request from the child care facility that  
15 is considering employing or contracting with the individual unless  
16 deemed confidential by state or federal law.

17 3. Requirements for confidentiality and record keeping with  
18 regard to the information shall be the same for the child care  
19 facility receiving the information in response to a request as those  
20 provided for in paragraph 1 of this subsection for the child care  
21 facility releasing such information.

22 G. 1. A criminal history records search conducted by the  
23 Oklahoma State Bureau of Investigation and a national criminal  
24 history records search based upon submission of fingerprints shall

1 include a search of Department of Corrections' files maintained  
2 pursuant to the Sex Offenders Registration Act.

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

19        b.    Upon a determination by the Department of any  
20               violation of the provisions of this section, the  
21               violation shall be subject to and the Department may  
22               pursue:

- 23               (1) an emergency order,
- 24               (2) license revocation or denial,

- 1 (3) injunctive proceedings,
- 2 (4) an administrative penalty not to exceed Ten
- 3 Thousand Dollars (\$10,000.00), and
- 4 (5) referral for criminal proceedings.

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

7 SECTION 6. AMENDATORY 10 O.S. 2001, Section 405, as  
8 amended by Section 4, Chapter 296, O.S.L. 2008 (10 O.S. Supp. 2008,  
9 Section 405), is amended to read as follows:

10 Section 405. A. No child care facility may be operated or  
11 maintained in this state, unless licensed or temporarily authorized  
12 by the Department of Human Services; provided, that the Department  
13 shall not be required to be licensed, but shall be bound by the  
14 standards it prescribes. No new child care facility may be  
15 established without the prior approval of the Department, which  
16 shall be granted only after the Department is satisfied that the  
17 facility will meet minimum standards for a license to operate.

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

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

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

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

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

1 SECTION 7. AMENDATORY 10 O.S. 2001, Section 406, as last  
2 amended by Section 6, Chapter 296, O.S.L. 2008 (10 O.S. Supp. 2008,  
3 Section 406), is amended to read as follows:

4 Section 406. A. The Department of Human Services shall have  
5 authority at any reasonable time to investigate and examine the  
6 conditions of any child care facility in which a licensee or  
7 applicant hereunder receives and maintains children, and shall have  
8 authority at any time to require the facility to provide information  
9 pertaining to children in its care.

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

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

18 C. 1. Upon receipt of a complaint against any child care  
19 facility alleging a violation of the provisions of the Oklahoma  
20 Child Care Facilities Licensing Act, or any licensing standard  
21 promulgated by the Commission for Human Services, the Department  
22 shall conduct a full investigation. If upon investigation, it is  
23 determined that there are reasonable grounds to believe that a  
24 facility is in violation of the Oklahoma Child Care Facilities

1 Licensing Act or of any standard or rule promulgated pursuant  
2 thereto, the Department shall:

- 3 a. document the complaint,
- 4 b. provide the complaint allegations in writing to the  
5 facility involved and, upon written request by the  
6 child care facility, provide a summary of the facts  
7 used to evaluate the completed complaint, and
- 8 c. document the facility's plan for correcting any  
9 substantiated violations.

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

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

20 4. If the facility refuses to correct a violation or fails to  
21 complete the plan of correction, the Department may issue an  
22 emergency order, revoke the license, or deny the application for a  
23 license. Nothing in this section or Section 407 of this title shall  
24 be construed as preventing the Department from denying an

1 application, revoking a license, or issuing an emergency order for a  
2 single violation of this act, or the rules of the Commission for  
3 Human Services as provided in Section 404 of this title.

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

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

22 SECTION 8. REPEALER 10 O.S. 2001, Section 419, is hereby  
23 repealed.

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SECTION 9. REPEALER 10 O.S. 2001, Section 430, is hereby repealed.

SECTION 10. This act shall become effective November 1, 2009.

52-1-6855 CJB 02/16/09