

THE HOUSE OF REPRESENTATIVES
Thursday, February 19, 2009

Committee Substitute for
House Bill No. 1742

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 1742 - By: PETERS of the House and ANDERSON of the Senate.

An Act relating to children; amending 10 O.S. 2001, Section 401, as amended by Section 1, Chapter 158, O.S.L. 2002 (10 O.S. Supp. 2008, Section 401), which relates to the Oklahoma Child Care Facilities Licensing Act; correcting statutory reference; amending 10 O.S. 2001, Section 402, which relates to definitions; modifying definitions; amending 10 O.S. 2001, Section 403, as amended by Section 1, Chapter 187, O.S.L. 2004 (10 O.S. Supp. 2008, Section 403), which relates to exemptions from application of act; modifying exemptions; amending 10 O.S. 2001, Section 404, as last amended by Section 2, Chapter 296, O.S.L. 2008 (10 O.S. Supp. 2008, Section 404), which relates to minimum requirements and desirable standards; eliminating specific required standards; eliminating provision allowing certain homes to be 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 Services; repealing 10 O.S. 2001, Section 430, which relates to augmentation of the STARS child care component; and providing an effective date.

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

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

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

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

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

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

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

14 C. In order to provide care for children in child care facilities, a license shall be
15 obtained from the Department of Human Services, which is issued on the basis of
16 meeting minimum standards which are essential for the health and welfare of the child
17 or children placed for care with such agencies and individuals.

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

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

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

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

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

8 3. "Child care facility" means any public or private child care residential facility,
9 child-placing agency, foster family home, group home, child care center, part-day child
10 care program, school-age program, summer day camp, family child care home, or large
11 family child care home providing either full-time or part-time care for children away from
12 their own homes;

13 ~~3. 4. "Child-placing agency" means a child welfare agency licensed to place children~~
14 ~~in foster family homes, group homes or adoptive homes~~

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

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

20 ~~6. "Foster parent eligibility assessment" includes a criminal background~~
21 ~~investigation, including, but not limited to, a national criminal history records search~~
22 ~~based upon the submission of fingerprints, a home assessment, and any other~~

1 assessment required by the Department of Human Services, the Department of Juvenile
2 Justice, or any child-placing agency pursuant to the provisions of the Oklahoma Foster
3 Care and Out-of-Home Placement Act. A foster parent eligibility assessment shall be
4 similar to the procedures used by the Department of Public Safety for determining
5 suitability of an individual for employment as a highway patrol officer;

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

9 5. "Commission" means the Commission for Human Services, the policymaking and
10 general supervisory body of the Department;

11 6. "Department" means the Department of Human Services;

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

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

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

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

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

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

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

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

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

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

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

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

- 3 1. Care provided in a child's own home or by relatives;
- 4 2. Informal arrangements which parents make with friends or neighbors for the
5 occasional care of their children, or an informal arrangement in which a friend or
6 neighbor cares for siblings or other persons who are from the same immediate household;
- 7 3. Programs in which school-aged children are participating in home-schooling;
- 8 4. Programs that serve children three (3) years of age and older and that are
9 operated during typical school hours by a public school district;
- 10 5. Programs that serve children three (3) years of age and older and that are
11 operated during typical school hours by a private school that offers elementary education
12 in grades kindergarten through third grade;
- 13 6. Summer youth camps for children who are at least five (5) years of age, that are
14 accredited by a national standard-setting agency or church camp accreditation program;
- 15 7. Programs in which children attend on a drop-in basis and parents are on the
16 premises and readily accessible;
- 17 8. A program of specialized activity or instruction for children that is not designed
18 or intended for child care purposes including, but not limited to, scouts, 4-H clubs and
19 summer resident youth camps, and single-activity programs such as academics, athletics,
20 gymnastics, hobbies, art, music, dance and craft instruction;

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

4 10. Facilities whose primary purpose is medical treatment;

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

- 8 a. have classroom facilities that are not used for residential living,
- 9 b. not have been granted nor have assumed legal custody of any child
10 attending the facility, and
- 11 c. adhere to standard educational holiday and seasonal recess periods to
12 permit students reasonable opportunities to return to their primary
13 places of residence with parents or legal guardians.

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

16 12. Day treatment programs and maternity homes operated by a licensed hospital;

17 or

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

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

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

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

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

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

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

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

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

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

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

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

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

1 Section 404.1

2 A. 1. a. Except as otherwise provided by subsection B of this section, prior to
3 the issuance of a license, the Department of Human Services shall
4 require a criminal history records search, conducted by the Oklahoma
5 State Bureau of Investigation, and a records search of the Oklahoma
6 child care worker registry established in Section ~~9~~ 405.3 of this act ~~et title~~
7 for any person making application to establish or operate a child care
8 facility.

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

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

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

21 (1) a criminal history records search conducted by the Oklahoma
22 State Bureau of Investigation ~~and,~~

- 1 (2) documentation of a records search of the Oklahoma child care
2 worker registry ~~to the Oklahoma Department of Human~~
3 ~~Services division responsible for child care licensing, and~~
4 (3) a request for the Department to conduct a records search of the
5 records of the Oklahoma State Courts Network.
- 6 b. ~~Prior to the employment of any person in a child care facility, the~~
7 ~~Department shall conduct a records search of the Oklahoma State~~
8 ~~Courts Network for that person~~ Hospitals and psychiatric residential
9 treatment facilities that comply with records searches required by
10 subparagraph a of this paragraph shall be exempt from the
11 requirement to submit the documentation to the Department.
- 12 c. ~~The Department shall conduct a records search of the Oklahoma State~~
13 ~~Courts Network for all employees and persons eighteen (18) years of~~
14 ~~age or older residing in a child care center, family child care home,~~
15 ~~large family child care home, part-day program, school-age program, or~~
16 ~~summer day camp program.~~
- 17 d. ~~Prior to allowing any person eighteen (18) years of age or older to~~
18 ~~reside in a child care center, family child care home, large family child~~
19 ~~care home, part-day program, school-age program, or summer day~~
20 ~~camp program~~ the facility shall submit to the Department of Human
21 Services division responsible for child care licensing the following:

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

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

7 (2) (3) a request for the Department ~~shall to~~ conduct a records search of
8 the Oklahoma State Courts Network.

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

13 4. If the following persons have lived in Oklahoma for less than three (3) years, a
14 criminal history records search shall also be obtained from the authorized agency in the
15 previous states of residence for:

- 16 a. applicants for a license to operate a child care facility,
17 b. employees of a child care facility, and
18 c. persons age eighteen (18) years or older residing in a child care center,
19 family child care home, large family child care home, part-day
20 program, school-age program, or summer day-camp program.

21 5. The Department of Juvenile Justice may directly request national criminal
22 history records searches as defined by Section 150.9 of Title 74 of the Oklahoma Statutes

1 from the Oklahoma State Bureau of Investigation for the purpose of obtaining the
2 national criminal history of any employee or applicant who has resided in Oklahoma for
3 less than three (3) years for which a search is required.

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

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

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

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

19 (2) the child-placing agency may place a child pending completion of
20 the national criminal history records search if the foster care
21 provider and every adult residing in the foster family home has

1 resided in this state for at least five (5) years immediately
2 preceding such placement,
3 (3) a national criminal history records search based upon
4 submission of fingerprints to the Oklahoma State Bureau of
5 Investigation shall also be completed for any adult who
6 subsequently moves into the foster family home,
7 (4) provided, however, the Director of Human Services or the
8 Director of the Department of Juvenile Justice, or a designee,
9 may authorize an exception to the fingerprinting requirement
10 for a person residing in the home who has a severe physical
11 condition which precludes such person's being fingerprinted, and
12 (5) any child care facility contracting with any person for foster
13 family home services shall request the Office of Juvenile Affairs
14 to conduct a juvenile justice information system review,
15 pursuant to the provisions of Sections 7302-9.6 and 7302-3.8 of
16 this title, for any child over the age of thirteen (13) years
17 residing in the foster family home, other than a foster child, or
18 who subsequently moves into the foster family home. As a
19 condition of contract, the child care facility shall obtain the
20 consent of the parent or legal guardian of the child for such
21 review.

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

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

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

1 state for at least (5) years immediately preceding such
2 placement.

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

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

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

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

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

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

- 10 a. a parent volunteer who transports children on an irregular basis, and
- 11 b. a child residing in a child care center, family child care home, or large
12 family child care home who became an adult during continuous
13 residence at the licensed or approved facility.

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

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

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

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

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

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

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

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

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

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

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

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

21 Section 405. A. No child care facility may be operated or maintained in this state,
22 unless licensed or temporarily authorized by the Department of Human Services;

1 provided, that the Department shall not be required to be licensed, but shall be bound by
2 the standards it prescribes. No new child care facility may be established without the
3 prior approval of the Department, which shall be granted only after the Department is
4 satisfied that the facility will meet minimum standards for a license to operate.

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

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

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

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

16 D. An application for a license shall be made on forms provided by the Department
17 and in the manner prescribed. Temporary authorization may be granted to allow the
18 Department to investigate the activities and standards of care of the applicant. The
19 Department may issue a license once it is satisfied that the applicant meets the
20 requirements as provided in this act. ~~A provisional license may be issued upon~~
21 ~~satisfaction of the requirements of subsection B of this section to any applicant whose~~
22 ~~services are needed but which is temporarily unable to conform to all the rules of the~~

1 Department, as provided in Section 404 of this title. All licenses shall be in force unless
2 revoked as authorized by Section 407 of this title; ~~provided, however, a provisional~~
3 ~~license may be in force for not more than one (1) year from the date of issuance, unless an~~
4 ~~emergency exists which, in the discretion of the Department, necessitates an extension~~
5 ~~thereof.~~

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

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

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

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

20 C. 1. Upon receipt of a complaint against any child care facility alleging a violation
21 of the provisions of the Oklahoma Child Care Facilities Licensing Act, or any licensing
22 standard promulgated by the Commission for Human Services, the Department shall

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

1 conduct a full investigation. If upon investigation, it is determined that there are
2 reasonable grounds to believe that a facility is in violation of the Oklahoma Child Care
3 Facilities Licensing Act or of any standard or rule promulgated pursuant thereto, the
4 Department shall:

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

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

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

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

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

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

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

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

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

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

21 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS AND BUDGET,
22 dated 02-18-09 - DO PASS, As Amended and Coauthored.