

1 STATE OF OKLAHOMA

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

3 HOUSE BILL 1742

By: Peters

4  
5 AS INTRODUCED

6 An Act relating to children; amending 10 O.S. 2001,  
7 Section 401, as amended by Section 1, Chapter 158,  
8 O.S.L. 2002 (10 O.S. Supp. 2008, Section 401), which  
9 relates to the Oklahoma Child Care Facilities  
10 Licensing Act; correcting statutory reference;  
11 amending 10 O.S. 2001, Section 402, which relates to  
12 definitions; modifying definitions; amending 10 O.S.  
13 2001, Section 403, as amended by Section 1, Chapter  
14 187, O.S.L. 2004 (10 O.S. Supp. 2008, Section 403),  
15 which relates to exemptions from application of act;  
16 modifying exemptions; amending 10 O.S. 2001, Section  
17 404, as last amended by Section 2, Chapter 296,  
18 O.S.L. 2008 (10 O.S. Supp. 2008, Section 404), which  
19 relates to minimum requirements and desirable  
20 standards; eliminating specific required standards;  
21 eliminating provision allowing certain homes to be  
22 maintained on the basis of permits; amending 10 O.S.  
23 2001, Section 404.1, as last amended by Section 3,  
24 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; 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.

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

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

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

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

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

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

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

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

23 D. The Child Care Facilities Licensing Division within the  
24 Department of Human Services shall work with representatives from

1 municipalities to develop a single child care licensure procedure  
2 for use by state and local entities.

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

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

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

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

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

18 ~~3.~~ 4. "Child-placing agency" means a ~~child welfare agency~~  
19 ~~licensed to place children in foster family homes, group homes or~~  
20 ~~adoptive homes~~

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

23 ~~5. "Foster family home" means the private residence of a family~~  
24 ~~which provides foster care services to a child, and includes a~~

1 ~~specialized foster home, a therapeutic foster family home, or a~~  
2 ~~kinship care home;~~

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

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

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

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

20 ~~7. "Division" means the section within the Department that is~~  
21 ~~assigned responsibilities pursuant to the provisions of the Oklahoma~~  
22 ~~Child Care Facilities Licensing Act;~~

23 ~~8. "Family child care home" means a family home which provides~~  
24 ~~care and supervision for seven or fewer children for part of the~~

1 twenty-four-hour day. The term "family child care home" shall not  
2 include informal arrangements which parents make independently with  
3 neighbors, friends, and others, or with caretakers in the child's  
4 own home;

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

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

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

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

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

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

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

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

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

- 9       1. Care provided in a child's own home or by relatives;
- 10       2. Informal arrangements which parents make with friends or  
11 neighbors for the occasional care of their children;
- 12       3. Programs in which school-aged children are participating in  
13 home-schooling;
- 14       4. Programs that serve children three (3) years of age and  
15 older and that are operated during typical school hours by a public  
16 school district;
- 17       5. Programs that serve children three (3) years of age and  
18 older and that are operated during typical school hours by a private  
19 school that offers elementary education in grades kindergarten  
20 through third grade;
- 21       6. Summer youth camps for children who are at least five (5)  
22 years of age, that are accredited by a national standard-setting  
23 agency or church camp accreditation program;

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

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

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

12 10. Facilities whose primary purpose is medical treatment;

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

- 16 a. have classroom facilities that are not used for  
17 residential living,  
18 b. not have been granted nor have assumed legal custody  
19 of any child attending the facility, and  
20 c. adhere to standard educational holiday and seasonal  
21 recess periods to permit students reasonable  
22 opportunities to return to their primary places of  
23 residence with parents or legal guardians-

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

4 12. Day treatment programs and maternity homes operated by a  
5 licensed hospital; or

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

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

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

15 Section 404. A. The Department of Human Services shall appoint  
16 advisory committees of representatives of child care facilities and  
17 others to prepare minimum requirements and desirable standards for  
18 promulgation by the Commission for Human Services. Committee  
19 members shall be appointed for a three-year term, with a two-  
20 consecutive-term limit. A majority of any committee appointed to  
21 prepare requirements and standards for child care facilities shall  
22 be representatives of child care facilities.

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

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

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

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

5       ~~4. Good health care;~~

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

7       ~~6. Good community relationships;~~

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

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

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

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

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

23       ~~F.~~ E. In order to improve the standards of child care, the  
24 Department shall advise and cooperate with licensees, the governing

1 bodies and staff of licensed child care facilities and assist the  
2 staff through advice of progressive methods and procedures, and  
3 suggestions for the improvement of services.

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

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

13 SECTION 5. AMENDATORY 10 O.S. 2001, Section 404.1, as  
14 last amended by Section 3, Chapter 296, O.S.L. 2008 (10 O.S. Supp.  
15 2008, Section 404.1), is amended to read as follows:

16 Section 404.1

17 A. 1. a. Except as otherwise provided by subsection B of this  
18 section, prior to the issuance of a license, the  
19 Department of Human Services shall require a criminal  
20 history records search, conducted by the Oklahoma  
21 State Bureau of Investigation, and a records search of  
22 the Oklahoma child care worker registry established in  
23 Section ~~9~~ 405.3 of this ~~act~~ title for any person

24

1 making application to establish or operate a child  
2 care facility.

3 b. Prior to the issuance of a permit or license, the  
4 Department shall conduct a records search of the  
5 Oklahoma State Courts Network for any person making  
6 application to establish or operate a child care  
7 facility.

8 c. 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 all employees and  
11 persons eighteen (18) years of age or older residing  
12 in a child care center, family child care home, large  
13 family child care home, part-day program, school-age  
14 program, or summer day camp.

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

19 (1) a criminal history records search conducted by  
20 the Oklahoma State Bureau of Investigation, and

21 (2) documentation of a records search of the Oklahoma  
22 child care worker registry ~~to the Oklahoma~~  
23 ~~Department of Human Services division responsible~~  
24 ~~for child care licensing, and~~

1                    (3) a request for the Department to conduct a records  
2                    search of the records of the Oklahoma State  
3                    Courts Network.

4                    ~~b. Prior to the employment of any person in a child care~~  
5                    ~~facility, the Department shall conduct a records~~  
6                    ~~search of the Oklahoma State Courts Network for that~~  
7                    ~~person.~~

8                    ~~e. The Department shall conduct a records search of the~~  
9                    ~~Oklahoma State Courts Network for all employees and~~  
10                   ~~persons eighteen (18) years of age or older residing~~  
11                   ~~in a child care center, family child care home, large~~  
12                   ~~family child care home, part day program, school age~~  
13                   ~~program, or summer day camp program.~~

14                   ~~d. Prior to allowing any person eighteen (18) years of~~  
15                   ~~age or older to reside in a child care center, family~~  
16                   ~~child care home, large family child care home, part-~~  
17                   ~~day program, school\_age program, or summer day camp~~  
18                   ~~program the facility shall submit to the Department of~~  
19                   ~~Human Services division responsible for child care~~  
20                   ~~licensing the following:~~

21                   ~~(1) the facility shall submit to the Department of~~  
22                   ~~Human Services division responsible for child~~  
23                   ~~care licensing a criminal history records search~~  
24                   ~~conducted by the Oklahoma State Bureau of~~

1 Investigation and documentation of a records  
2 search of the Oklahoma child care worker  
3 registry, ~~and~~

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

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

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

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

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

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

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

9                   (1) any child-placing agency contracting with a  
10                    person for foster family home services or in any  
11                    manner for services for the care and supervision  
12                    of children shall also, prior to executing a  
13                    contract, complete:

14                           (a) a foster parent eligibility assessment for  
15                            the foster care provider except as otherwise  
16                            provided by divisions 2 and 4 of this  
17                            subparagraph, and

18                           (b) a national criminal history records search  
19                            based upon submission of fingerprints for  
20                            any adult residing in the foster family home  
21                            through the Department of Human Services  
22                            pursuant to the provisions of the Oklahoma  
23                            Foster Care and Out-of-Home Placement Act,  
24

1                   except as otherwise provided by divisions 2  
2                   and 4 of this subparagraph,

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

10          (3) a national criminal history records search based  
11          upon submission of fingerprints to the Oklahoma  
12          State Bureau of Investigation shall also be  
13          completed for any adult who subsequently moves  
14          into the foster family home,

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

22          (5) any child care facility contracting with any  
23          person for foster family home services shall  
24          request the Office of Juvenile Affairs to conduct

1 a juvenile justice information system review,  
2 pursuant to the provisions of Sections 7302-9.6  
3 and 7302-3.8 of this title, for any child over  
4 the age of thirteen (13) years residing in the  
5 foster family home, other than a foster child, or  
6 who subsequently moves into the foster family  
7 home. As a condition of contract, the child care  
8 facility shall obtain the consent of the parent  
9 or legal guardian of the child for such review.

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

18 2. a. (1) On and after September 1, 1998, except as  
19 otherwise provided in divisions ~~2~~ (2) and ~~4~~ (4)  
20 of this subparagraph, prior to contracting with a  
21 foster family home for placement of any child who  
22 is in the custody of the Department of Human  
23 Services or the Department of Juvenile Justice,  
24 each Department shall complete a foster parent

1 eligibility assessment, pursuant to the  
2 provisions of the Oklahoma Child Care Facilities  
3 Licensing Act, for such foster family applicant.  
4 In addition, except as otherwise provided by  
5 divisions ~~2~~ (2) and ~~4~~ (4) of this subparagraph,  
6 the Department shall complete a national criminal  
7 history records search based upon submission of  
8 fingerprints for any adult residing in such  
9 foster family home.

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

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

22 (4) The Director of Human Services or the Director of  
23 the Department of Juvenile Justice or designee  
24 may authorize an exception to the fingerprinting

1 requirement for any person residing in the home  
2 who has a severe physical condition which  
3 precludes such person's being fingerprinted.

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

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

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

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

5 a. a parent volunteer who transports children on an  
6 irregular basis, and

7 b. a child residing in a child care center, family child  
8 care home, or large family child care home who became  
9 an adult during continuous residence at the licensed  
10 or approved facility.

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

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

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

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

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

12           G. 1. A criminal history records search conducted by the  
13 Oklahoma State Bureau of Investigation and a national criminal  
14 history records search based upon submission of fingerprints shall  
15 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  
18 register pursuant to the Sex Offenders Registration  
19 Act to work with or provide services to children or to  
20 reside in a child care facility and for any employer  
21 who offers or provides services to children to  
22 knowingly and willfully employ or contract with, or  
23 allow continued employment of or contracting with any  
24 person who is required to register pursuant to the Sex

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

9 b. Upon a determination by the Department of any  
10 violation of the provisions of this section, the  
11 violator shall be subject to and the Department may  
12 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  
17 Thousand Dollars (\$10,000.00), and
- 18 (5) referral for criminal proceedings.

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

21 SECTION 6. AMENDATORY 10 O.S. 2001, Section 405, as  
22 amended by Section 4, Chapter 296, O.S.L. 2008 (10 O.S. Supp. 2008,  
23 Section 405), is amended to read as follows:  
24

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

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

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

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

20 C. The incorporation or domestication of a corporation  
21 organized for the purpose of operating a child care facility shall  
22 not exempt such corporation from compliance with the provisions of  
23 this act.

24

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

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

19 Section 406. A. The Department of Human Services shall have  
20 authority at any reasonable time to investigate and examine the  
21 conditions of any child care facility in which a licensee or  
22 applicant hereunder receives and maintains children, and shall have  
23 authority at any time to require the facility to provide information  
24 pertaining to children in its care.

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

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

9 C. 1. Upon receipt of a complaint against any child care  
10 facility alleging a violation of the provisions of the Oklahoma  
11 Child Care Facilities Licensing Act, or any licensing standard  
12 promulgated by the Commission for Human Services, the Department  
13 shall conduct a full investigation. If upon investigation, it is  
14 determined that there are reasonable grounds to believe that a  
15 facility is in violation of the Oklahoma Child Care Facilities  
16 Licensing Act or of any standard or rule promulgated pursuant  
17 thereto, the Department shall:

- 18 a. document the complaint,
- 19 b. provide the complaint allegations in writing to the  
20 facility involved and, upon written request by the  
21 child care facility, provide a summary of the facts  
22 used to evaluate the completed complaint, and
- 23 c. document the facility's plan for correcting any  
24 substantiated violations.

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

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

11           4. If the facility refuses to correct a violation or fails to  
12 complete the plan of correction, the Department may issue an  
13 emergency order, revoke the license, or deny the application for a  
14 license. Nothing in this section or Section 407 of this title shall  
15 be construed as preventing the Department from denying an  
16 application, revoking a license, or issuing an emergency order for a  
17 single violation of this act, or the rules of the Commission for  
18 Human Services as provided in Section 404 of this title.

19           D. Upon the completion of the investigation of a complaint  
20 against any child care facility alleging a violation of the  
21 provisions of the Oklahoma Child Care Facilities Licensing Act or  
22 any licensing standard promulgated thereto by the Commission, the  
23 Department shall clearly designate its findings on the first page of  
24

1 the report of the investigation. The findings shall state whether  
2 the complaint was substantiated or unsubstantiated.

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

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

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

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