

1 STATE OF OKLAHOMA

2 1st Session of the 53rd Legislature (2011)

3 COMMITTEE SUBSTITUTE

4 FOR

5 HOUSE BILL NO. 1364

6 By: Peters

7 COMMITTEE SUBSTITUTE

8 An Act relating to children; amending 10 O.S. 2001,  
9 Sections 402, as amended by Section 2, Chapter 230,  
10 O.S.L. 2009, 404.1, as last amended by Section 5,  
11 Chapter 230, O.S.L. 2009, 405, as last amended by  
12 Section 1, Chapter 338, O.S.L. 2009, Section 9,  
13 Chapter 296, O.S.L. 2008 and 408 (10 O.S. Supp. 2010,  
14 Sections 402, 404.1, 405 and 405.3), which relate to  
15 the Oklahoma Child Care Facilities Licensing Act;  
16 modifying definitions; renaming the Oklahoma child  
17 care worker registry the Child Care Restricted  
18 Registry; modifying background investigation  
19 requirements and procedure; providing exceptions;  
20 directing Department of Human Services to promulgate  
21 rules for certain fingerprint requirement exceptions;  
22 removing authority for the release of certain  
23 background information; modifying certain background  
24 investigation requirements; modifying references to  
certain registry; modifying certain appeal deadlines;  
and providing an effective date.

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

SECTION 1. AMENDATORY 10 O.S. 2001, Section 402, as  
amended by Section 2, Chapter 230, O.S.L. 2009 (10 O.S. Supp. 2010,  
Section 402), is amended to read as follows:

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

3 1. "Adult" means an individual eighteen (18) years of age or  
4 older;

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

7 ~~2.~~ 3. "Child care center" means a facility which provides care  
8 and supervision for children and which operates for more than thirty  
9 (30) hours per week;

10 ~~3.~~ 4. "Child care facility" means any public or private child  
11 care residential facility, child-placing agency, foster family home,  
12 child care center, part-day child care program, school-age program,  
13 summer day camp, family child care home, or large family child care  
14 home providing either full-time or part-time care for children away  
15 from their own homes;

16 ~~4.~~ 5. "Child-placing agency" means an agency that arranges for  
17 or places a child in a foster family home, adoptive home, or  
18 independent living program;

19 ~~5.~~ 6. "Foster family home" means the private residence of a  
20 family which provides foster care services to a child, and includes  
21 a specialized foster home, a therapeutic foster family home, or a  
22 kinship care home;

23 ~~6.~~ 7. "Foster parent eligibility assessment" includes a  
24 criminal background investigation, including, but not limited to, a

1 national criminal history records search based upon the submission  
2 of fingerprints, a home assessment, and any other assessment  
3 required by the Department of Human Services, the Department of  
4 Juvenile Justice, or any child-placing agency pursuant to the  
5 provisions of the Oklahoma Foster Care and Out-of-Home Placement  
6 Act. A foster parent eligibility assessment shall be similar to the  
7 procedures used by the Department of Public Safety for determining  
8 suitability of an individual for employment as a highway patrol  
9 officer;

10 ~~7.~~ 8. "Commission" means the Commission for Human Services, the  
11 policymaking and general supervisory body of the Department;

12 ~~8.~~ 9. "Department" means the Department of Human Services;

13 ~~9.~~ 10. "Division" means the section within the Department that  
14 is assigned responsibilities pursuant to the provisions of the  
15 Oklahoma Child Care Facilities Licensing Act;

16 ~~10.~~ 11. "Family child care home" means a family home which  
17 provides care and supervision for seven or fewer children for part  
18 of the twenty-four-hour day. The term "family child care home"  
19 shall not include informal arrangements which parents make  
20 independently with neighbors, friends, and others, or with  
21 caretakers in the child's own home;

22 ~~11.~~ 12. "Full-time care" means continuous care given to a child  
23 beyond a minimum period of twenty-four (24) hours;

24

1       ~~12.~~ 13. "Large family child care home" means a residential  
2 family home which provides care and supervision for eight to twelve  
3 children for part of the twenty-four-hour day;

4       ~~13.~~ 14. "Part-day child care program" means a facility that  
5 provides care and supervision for children and that operates for  
6 more than fifteen (15) and up to thirty (30) hours per week; ~~and~~

7       ~~14.~~ 15. "Residential child care facility" means a twenty-four-  
8 hour residential facility where children live together with or are  
9 supervised by adults who are not their parents or relatives; and

10       16. "Unsupervised access to children" means an individual is  
11 within sight and hearing of children and is not accompanied by  
12 personnel with a completed background investigation pursuant to the  
13 Oklahoma Child Care Facilities Licensing Act.

14       SECTION 2.       AMENDATORY       10 O.S. 2001, Section 404.1, as  
15 last amended by Section 5, Chapter 230, O.S.L. 2009 (10 O.S. Supp.  
16 2010, Section 404.1), is amended to read as follows:

17       Section 404.1

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

1 this title for any person making application to  
2 establish or operate a child 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,

21 (2) documentation of a records search of the Oklahoma  
22 ~~child care worker registry~~ Child Care Restricted  
23 Registry, and  
24

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. Hospitals contracting with the Oklahoma Health Care  
5 Authority and complying with the records searches  
6 required by this section shall be exempt from the  
7 requirement to submit such documentation to the  
8 Department. Documentation of records searches shall  
9 be maintained at the hospital and shall be available  
10 for review by the division of the Department  
11 responsible for child care licensing.

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

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

21 (2) documentation of a records search of the Oklahoma  
22 ~~child care worker registry~~ Child Care Restricted  
23 Registry, and  
24

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

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

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

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

19 5. The Department of Juvenile Justice may directly request  
20 national criminal history records searches as defined by Section  
21 150.9 of Title 74 of the Oklahoma Statutes from the Oklahoma State  
22 Bureau of Investigation for the purpose of obtaining the national  
23 criminal history of any employee or applicant who has resided in  
24

1 Oklahoma for less than three (3) years for which a search is  
2 required.

3 B. On or after November 1, 2013:

4 1. Prior to the issuance of a permit or license, individuals  
5 making application to establish or operate a child care facility  
6 shall have:

7 a. an Oklahoma State Courts Network (OSCN) search  
8 conducted by the Department,

9 b. a Child Care Restricted Registry search conducted by  
10 the facility, and

11 c. a national criminal history records search conducted  
12 pursuant to paragraph 10 of this subsection;

13 2. Prior to the employment of child care facility employees:

14 a. an OSCN search, conducted by the Department, shall be  
15 requested by the facility,

16 b. a Child Care Restricted Registry search shall be  
17 conducted by the facility, and

18 c. a national criminal history records search pursuant to  
19 paragraph 10 of this subsection shall be submitted to  
20 the Department;

21 3. Prior to allowing unsupervised access to children by  
22 personnel or individuals, including contract personnel and  
23 volunteers:

24

1       a.    OSCN search results, conducted by the Department,  
2       shall be received by the facility,

3       b.    a Child Care Restricted Registry search shall be  
4       conducted by the facility, and

5       c.    national criminal history records search results shall  
6       be received by the facility;

7       4.    Prior to the issuance of a permit or license and prior to  
8       the residence of adults who subsequently move into a facility,  
9       adults living in the facility shall have:

10       a.    an OSCN search conducted by the Department and the  
11       facility shall be in receipt of the search results,

12       b.    a Child Care Restricted Registry search conducted by  
13       the facility, and

14       c.    a national criminal history records search pursuant to  
15       paragraph 10 of this subsection;

16       5.    Children who reside in the facility and turn eighteen (18)  
17       years of age shall have:

18       a.    an OSCN search conducted by the Department,

19       b.    a Child Care Restricted Registry search conducted by  
20       the facility, and

21       c.    a national criminal history records search pursuant to  
22       paragraph 10 of this subsection;

23       6.    Prior to review of and access to fingerprint results,  
24       owners, directors and other personnel who have review of and access

1 to fingerprint results shall have a national criminal history  
2 records search conducted pursuant to paragraph 10 of this  
3 subsection;

4 7. Provisions set forth in paragraphs 4 and 5 of this  
5 subsection shall not apply to residents who are receiving services  
6 from a residential child care facility;

7 8. A national criminal history records search, pursuant to  
8 paragraph 10 of this subsection, shall not be required for parent  
9 volunteers who transport on an irregular basis when a release for  
10 each event is signed by parents noting their understanding that the  
11 parent volunteer does not have a completed national criminal history  
12 records search. However, this exemption shall not preclude the  
13 Department from requesting a national or an Oklahoma State Bureau of  
14 Investigation (OSBI) name-based criminal history records search, or  
15 investigating criminal, abusive, or harmful behavior of such  
16 individuals, if warranted;

17 9. A national criminal history records search, pursuant to  
18 paragraph 10 of this subsection, shall be required by November 1,  
19 2016, for existing personnel, individuals with unsupervised access  
20 to children, and adults living in the facility;

21 10. The Department shall require a national criminal history  
22 records search, based upon submission of fingerprints, that shall:

23 a. be conducted by the Oklahoma State Bureau of  
24 Investigation (OSBI) and Federal Bureau of

1 Investigation (FBI), pursuant to Section 150.9 of  
2 Title 74 of the Oklahoma Statutes and the National  
3 Child Protection Act (NCPA), Volunteers for Children  
4 Act (VCA) with the Department being the authorized  
5 agency,

6 b. be submitted and results received between the  
7 Department and OSBI through secure electronic  
8 transmissions,

9 c. include OSBI rap back, which means OSBI will  
10 immediately notify the Department upon receipt of  
11 subsequent criminal history activity, and

12 d. be paid by the individual or the facility; and

13 11. The Department shall promulgate rules that may authorize an  
14 exception to the fingerprinting requirements for individuals who  
15 have a severe physical condition which precludes such individuals  
16 from being fingerprinted.

17 C. 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 2-7-905 and ~~7302-3.8~~ 2-7-308 of ~~this title~~ Title  
12 10A of the Oklahoma Statutes, for any child over  
13 the age of thirteen (13) years residing in the  
14 foster family home, other than a foster child, or  
15 who subsequently moves into the foster family  
16 home. As a condition of contract, the child care  
17 facility shall obtain the consent of the parent  
18 or legal guardian of the child for such review.

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

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) and (4) of  
5 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) and (4) of this subparagraph, the  
15 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~~ 2-7-308 of  
24 ~~this title~~ Title 10A of the Oklahoma Statutes for any child over the

1 age of thirteen (13) years residing in a foster family home, other  
2 than the foster child, or who subsequently moves into the foster  
3 family home.

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

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

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

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

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

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

7 ~~F. 1.~~ G. 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~~ and federal  
10 ~~law~~ laws.

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

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

24 (1) an emergency order,

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

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

8 SECTION 3. AMENDATORY 10 O.S. 2001, Section 405, as last  
9 amended by Section 1, Chapter 338, O.S.L. 2009 (10 O.S. Supp. 2010,  
10 Section 405), is amended to read as follows:

11 Section 405. A. No child care facility may be operated or  
12 maintained in this state, unless licensed or temporarily authorized  
13 by the Department of Human Services, except for the shelters  
14 certified by the Oklahoma Commission on Children and Youth pursuant  
15 to Section 601.3 of this title; provided, that the Department shall  
16 not be required to be licensed, but shall be bound by the standards  
17 it prescribes. No new child care facility may be established  
18 without the prior approval of the Department, which shall be granted  
19 only after the Department is satisfied that the facility will meet  
20 minimum standards for a license to operate.

21 B. The Department shall not grant approval for a permit, or a  
22 license for a new child care facility to receive and care for  
23 children until:  
24

1 1. All background investigation requirements ~~for searches of~~  
2 ~~criminal history records and the child care worker registry~~ are met  
3 pursuant to ~~subsection A of~~ the requirements of Section 404.1 of  
4 this title; and

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

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

14 D. An application for a license shall be made on forms provided  
15 by the Department and in the manner prescribed. Temporary  
16 authorization may be granted to allow the Department to investigate  
17 the activities and standards of care of the applicant. The  
18 Department may issue a license once it is satisfied that the  
19 applicant meets the requirements as provided in this act. All  
20 licenses shall be in force unless revoked as authorized by Section  
21 407 of this title.

22 SECTION 4. AMENDATORY Section 9, Chapter 296, O.S.L.  
23 2008 (10 O.S. Supp. 2010, Section 405.3), is amended to read as  
24 follows:

1 Section 405.3 A. On or before July 1, 2010, the Commission for  
2 Human Services shall promulgate rules to establish and maintain a  
3 ~~child care worker registry~~ Child Care Restricted Registry,  
4 accessible to the public through an online database, to address:

5 1. A procedure for recording ~~persons in~~ individuals on the  
6 restricted registry resulting from:

- 7 a. a finding of abuse or neglect, as defined in Section  
8 ~~7102 of Title 10~~ 1-1-105 of Title 10A of the Oklahoma  
9 Statutes, by ~~a person~~ an individual when the abuse or  
10 neglect occurred to children while in the care of a  
11 child care facility,
- 12 b. a revocation or denial of a child care facility  
13 license, and
- 14 c. a specified criminal history of an individual, as  
15 defined by rules promulgated by the Oklahoma  
16 Commission for Human Services;

17 2. A procedure to provide notice and an opportunity for review  
18 prior to recording ~~a person in~~ an individual on the restricted  
19 registry;

20 3. Disclosure requirements for information ~~in~~ on the restricted  
21 registry; and

22 4. A procedure to ~~restrict~~ prohibit licensure, ownership, ~~or~~  
23 employment, or residence in a licensed child care facility of ~~any~~

1 ~~person~~ individuals recorded ~~in~~ on the ~~child care worker~~ restricted  
2 registry.

3 B. The ~~child care worker registry~~ Child Care Restricted  
4 Registry shall include, but not be limited to:

- 5 1. The full name of the individual;
- 6 2. Information necessary to identify the individual; and
- 7 3. The date the individual was recorded ~~in~~ on the restricted  
8 registry.

9 SECTION 5. AMENDATORY 10 O.S. 2001, Section 408, is  
10 amended to read as follows:

11 Section 408. A. Any licensee or applicant aggrieved by the  
12 decision of the Department of Human Services under ~~Sections 405 or~~  
13 Section 407 of this title may, within ten (10) days after the  
14 revocation or denial of the license, appeal to the district court of  
15 the county in which the child care facility is maintained and  
16 operated by filing with the clerk of the court a verified petition.  
17 Notice of such appeal shall be served on the Director of the  
18 Department within five (5) days of the date of its filing.

19 B. The ~~Department~~ licensee or applicant shall, within ~~ten (10)~~  
20 twenty (20) days of the ~~service of such notice~~ filing of the appeal,  
21 file with the clerk of such court a transcript of the proceedings  
22 ~~had before it~~ held pursuant to Section 407 of this title. The  
23 district court shall thereupon be vested with jurisdiction to review  
24 the proceedings of the Department; provided that, if the Department

1 prevails, the judgment of the district court shall be that the  
2 decision of the Department be affirmed, and if the licensee or  
3 applicant prevails, the judgment of the court shall be that the  
4 revocation be set aside or the license issued or renewed, as the  
5 case may be. Pending the hearing of the appeal, the action of the  
6 Department revoking or denying the license or the granting thereof  
7 shall be stayed; provided, after the filing of an appeal, the  
8 district court, upon application by the Department and after an  
9 appropriate hearing, may grant a restraining order to enforce the  
10 decision of the Department.

11 SECTION 6. This act shall become effective November 1, 2011.

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