

1 STATE OF OKLAHOMA

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

3 SUBCOMMITTEE
4 RECOMMENDATION

5 FOR

6 HOUSE BILL NO. 1364

7 By: Peters

8 SUBCOMMITTEE RECOMMENDATION

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

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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 or other law enforcement
23 agency authorized to conduct criminal history records
24 searches, and a records search of the Oklahoma child

1 care worker registry established in Section 405.3 of
2 this title for any person making application to
3 establish or operate a child care facility.b. Prior to
4 the issuance of a permit or license, the Department
5 shall conduct a records search of the Oklahoma State
6 Courts Network for any person making application to
7 establish or operate a child care 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 or
21 other law enforcement agency authorized to
22 conduct criminal history records searches,

23 (2) documentation of a records search of the Oklahoma
24 child care worker registry, 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. 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 or
21 other law enforcement agency authorized to
22 conduct criminal history records searches,

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

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 or other law enforcement
5 agency authorized to conduct criminal history records searches to
6 the Department, a copy of that exact document shall be sufficient to
7 satisfy any further request for that document. The Department may
8 promulgate rules regarding the electronic submission of required
9 documents.

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

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

21 5. The Department of Juvenile Justice may directly request
22 national criminal history records searches as defined by Section
23 150.9 of Title 74 of the Oklahoma Statutes from the Oklahoma State
24 Bureau of Investigation for the purpose of obtaining the national

1 criminal history of any employee or applicant who has resided in
2 Oklahoma for less than three (3) years for which a search is
3 required.

4 B. On or after November 1, 2013:

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

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

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

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

14 2. Prior to employment of personnel;

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

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

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

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

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 fingerprint
12 criminal history records search. However, this exemption shall not
13 preclude the Department from requesting a national fingerprint or an
14 Oklahoma State Bureau of Investigation (OSBI) name-based criminal
15 history records search or investigating criminal, abusive, or
16 harmful behavior of such individuals, if warranted;

17 9. A national fingerprint criminal history records search,
18 pursuant to paragraph 10 of this subsection, shall be required by
19 November 1, 2016, for existing personnel, individuals with
20 unsupervised access 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 or other law
21 enforcement agency authorized to conduct criminal
22 history records searches shall also be completed
23 for any adult who subsequently moves into the
24 foster family home,

1 (4) provided, however, the Director of Human Services
2 or the Director of the Department of Juvenile
3 Justice, or a designee, may authorize an
4 exception to the fingerprinting requirement for a
5 person residing in the home who has a severe
6 physical condition which precludes such person's
7 being fingerprinted, and

8 (5) any child care facility contracting with any
9 person for foster family home services shall
10 request the Office of Juvenile Affairs to conduct
11 a juvenile justice information system review,
12 pursuant to the provisions of Sections ~~7302-9.6~~
13 2-7-905 and ~~7302-3.8~~ 2-7-308 of ~~this title~~ Title
14 10A of the Oklahoma Statutes, for any child over
15 the age of thirteen (13) years residing in the
16 foster family home, other than a foster child, or
17 who subsequently moves into the foster family
18 home. As a condition of contract, the child care
19 facility shall obtain the consent of the parent
20 or legal guardian of the child for such review.

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

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

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

21 (2) The Department of Human Services and Department
22 of Juvenile Justice may place a child pending
23 completion of the national criminal history
24 records search if the foster care provider and

1 every adult residing in the foster family home
2 has resided in this state for at least (5) years
3 immediately preceding such placement.

4 (3) A national criminal history records search based
5 upon submission of fingerprints conducted by the
6 Oklahoma State Bureau of Investigation or other
7 law enforcement agency authorized to conduct
8 criminal history records searches shall also be
9 completed for any adult who subsequently moves
10 into the foster family home.

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

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

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

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

16 ~~D.~~ E. 1. The following persons shall not be required to obtain
17 a criminal history records search or a national criminal history
18 records search based upon submission of fingerprints pursuant to
19 this section:

- 20 a. a parent volunteer who transports children on an
21 irregular basis, and
22 b. a child residing in a child care center, family child
23 care home, or large family child care home who became
24

1 an adult during continuous residence at the licensed
2 or approved facility.

3 2. These exemptions shall not preclude the Department from
4 requesting a criminal history records search or requesting a
5 national criminal history records search based upon submission of
6 fingerprints or investigating criminal, abusive or harmful behavior
7 of such persons, if warranted.

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

12 ~~F. 1.~~ G. Information received pursuant to this section by an
13 owner or administrator of a child care facility shall be maintained
14 in a confidential manner pursuant to applicable state or federal
15 law.

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

22 ~~3. Requirements for confidentiality and record keeping with~~
23 ~~regard to the information shall be the same for the child care~~
24 ~~facility receiving the information in response to a request as those~~

1 ~~provided for in paragraph 1 of this subsection for the child care~~
2 ~~facility releasing such information.~~

3 G. H. 1. A criminal history records search conducted by the
4 Oklahoma State Bureau of Investigation or other law enforcement
5 agency authorized to conduct criminal history records searches and a
6 national criminal history records search based upon submission of
7 fingerprints shall include a search of Department of Corrections'
8 files maintained pursuant to the Sex Offenders Registration Act.

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

3 b. Upon a determination by the Department of any
4 violation of the provisions of this section, the
5 violator shall be subject to and the Department may
6 pursue:

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

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

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

18 Section 405. A. No child care facility may be operated or
19 maintained in this state, unless licensed or temporarily authorized
20 by the Department of Human Services, except for the shelters
21 certified by the Oklahoma Commission on Children and Youth pursuant
22 to Section 601.3 of this title; provided, that the Department shall
23 not be required to be licensed, but shall be bound by the standards
24 it prescribes. No new child care facility may be established

1 without the prior approval of the Department, which shall be granted
2 only after the Department is satisfied that the facility will meet
3 minimum standards for a license to operate.

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

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

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

16 C. The incorporation or domestication of a corporation
17 organized for the purpose of operating a child care facility shall
18 not exempt such corporation from compliance with the provisions of
19 this act.

20 D. An application for a license shall be made on forms provided
21 by the Department and in the manner prescribed. Temporary
22 authorization may be granted to allow the Department to investigate
23 the activities and standards of care of the applicant. The
24 Department may issue a license once it is satisfied that the

1 applicant meets the requirements as provided in this act. All
2 licenses shall be in force unless revoked as authorized by Section
3 407 of this title.

4 SECTION 4. AMENDATORY Section 9, Chapter 296, O.S.L.
5 2008 (10 O.S. Supp. 2010, Section 405.3), is amended to read as
6 follows:

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

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

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

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24

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

4 3. Disclosure requirements for information ~~in~~ on the restricted
5 registry; and

6 4. A procedure to ~~restrict~~ prohibit licensure, ownership, or
7 employment, or residence in a licensed child care facility of ~~any~~
8 ~~person~~ individuals recorded ~~in~~ on the child care worker restricted
9 registry.

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

12 1. The full name of the individual;

13 2. Information necessary to identify the individual; and

14 3. The date the individual was recorded ~~in~~ on the restricted
15 registry.

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

18 Section 408. A. Any licensee or applicant aggrieved by the
19 decision of the Department of Human Services under ~~Sections~~ Section
20 405 or 407 of this title may, within ten (10) days after the
21 revocation or denial of the license, appeal to the district court of
22 the county in which the child care facility is maintained and
23 operated by filing with the clerk of the court a verified petition.

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1 Notice of such appeal shall be served on the Director of the
2 Department within five (5) days of the date of its filing.

3 B. The ~~Department~~ licensee or applicant shall, within ~~ten (10)~~
4 twenty (20) days of the ~~service of such notice~~ filing of the appeal,
5 file with the clerk of such court a transcript of the proceedings
6 ~~had before it~~ held pursuant to Section 407 of this title. The
7 district court shall thereupon be vested with jurisdiction to review
8 the proceedings of the Department; provided that, if the Department
9 prevails, the judgment of the district court shall be that the
10 decision of the Department be affirmed, and if the licensee or
11 applicant prevails, the judgment of the court shall be that the
12 revocation be set aside or the license issued or renewed, as the
13 case may be. Pending the hearing of the appeal, the action of the
14 Department revoking or denying the license or the granting thereof
15 shall be stayed; provided, after the filing of an appeal, the
16 district court, upon application by the Department and after an
17 appropriate hearing, may grant a restraining order to enforce the
18 decision of the Department.

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

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21 53-1-6769 SDR 02/21/11

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