

1 ENGROSSED SENATE
2 BILL NO. 674

By: Jolley of the Senate

3 and

4 Peters of the House
5
6

7 An Act relating to child care facilities background
8 investigations; amending 10 O.S. 2001, Sections 402,
9 404.1, as last amended by Section 2, Chapter 230, O.S.L. 2009,
10 O.S.L. 2009, 405, as last amended by Section 1,
11 Chapter 338, O.S.L. 2009, Section 9, Chapter 296,
12 O.S.L. 2008, and 408 (10 O.S. Supp. 2010, Sections
13 402, 404.1, 405 and 405.3), which relate to the
14 Oklahoma Child Care Facilities Licensing Act;
15 modifying definitions; renaming certain registry;
16 modifying language; providing for certain background
17 investigations in specified circumstances; making
18 certain exceptions; directing the Commission for
19 Human Services to promulgate certain rules; updating
20 statutory references; deleting language permitting
21 the release of certain information; deleting language
22 providing for certain confidentiality; modifying
23 procedure for sanctioning certain entities on
24 specified registry; modifying procedures for certain
appeal; 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:

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

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

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

5 ~~2-~~ 3. "Child care center" means a facility which provides care
6 and supervision for children and which operates for more than thirty
7 (30) hours per week;

8 ~~3-~~ 4. "Child care facility" means any public or private child
9 care residential facility, child-placing agency, foster family home,
10 child care center, part-day child care program, school-age program,
11 summer day camp, family child care home, or large family child care
12 home providing either full-time or part-time care for children away
13 from their own homes;

14 ~~4-~~ 5. "Child-placing agency" means an agency that arranges for
15 or places a child in a foster family home, adoptive home, or
16 independent living program;

17 ~~5-~~ 6. "Foster family home" means the private residence of a
18 family which provides foster care services to a child, and includes
19 a specialized foster home, a therapeutic foster family home, or a
20 kinship care home;

21 ~~6-~~ 7. "Foster parent eligibility assessment" includes a
22 criminal background investigation, including, but not limited to, a
23 national criminal history records search based upon the submission
24 of fingerprints, a home assessment, and any other assessment

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

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

10 ~~8.~~ 9. "Department" means the Department of Human Services;

11 ~~9.~~ 10. "Division" means the section within the Department that
12 is assigned responsibilities pursuant to the provisions of the
13 Oklahoma Child Care Facilities Licensing Act;

14 ~~10.~~ 11. "Family child care home" means a family home which
15 provides care and supervision for seven or fewer children for part
16 of the twenty-four-hour day. The term "family child care home"
17 shall not include informal arrangements which parents make
18 independently with neighbors, friends, and others, or with
19 caretakers in the child's own home;

20 ~~11.~~ 12. "Full-time care" means continuous care given to a child
21 beyond a minimum period of twenty-four (24) hours;

22 ~~12.~~ 13. "Large family child care home" means a residential
23 family home which provides care and supervision for eight to twelve
24 children for part of the twenty-four-hour day;

1 ~~13.~~ 14. "Part-day child care program" means a facility that
2 provides care and supervision for children and that operates for
3 more than fifteen (15) and up to thirty (30) hours per week; ~~and~~

4 ~~14.~~ 15. "Residential child care facility" means a twenty-four-
5 hour residential facility where children live together with or are
6 supervised by adults who are not their parents or relatives; and

7 16. "Unsupervised access to children" means an individual who
8 is left alone with children without an individual who has completed
9 a background investigation pursuant to the Oklahoma Child Care
10 Facilities Licensing Act.

11 SECTION 2. AMENDATORY 10 O.S. 2001, Section 404.1, as
12 last amended by Section 5, Chapter 230, O.S.L. 2009 (10 O.S. Supp.
13 2010, Section 404.1), is amended to read as follows:

14 Section 404.1.

15 A. 1. a. Except as otherwise provided by subsection ~~B~~ C of this
16 section, prior to the issuance of a license, the
17 Department of Human Services shall require a criminal
18 history records search, conducted by the Oklahoma
19 State Bureau of Investigation, and a records search of
20 the Oklahoma ~~child care worker registry~~ Child Care
21 Restricted Registry established in Section 405.3 of
22 this title for any person making application to
23 establish or operate a child care facility.

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

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

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

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

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

22 (3) a request for the Department to conduct a records
23 search of the records of the Oklahoma State
24 Courts Network.

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

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

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

18 (2) documentation of a records search of the Oklahoma
19 ~~child care worker registry~~ Child Care Restricted
20 Registry, and

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

23 3. Once a facility has submitted an original document from the
24 Oklahoma State Bureau of Investigation to the Department, a copy of

1 that exact document shall be sufficient to satisfy any further
2 request for that document. The ~~Department~~ Commission for Human
3 Services may promulgate rules regarding the electronic submission of
4 required documents.

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

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

16 5. The ~~Department of Juvenile Justice~~ Office of Juvenile
17 Affairs may directly request national criminal history records
18 searches as defined by Section 150.9 of Title 74 of the Oklahoma
19 Statutes from the Oklahoma State Bureau of Investigation for the
20 purpose of obtaining the national criminal history of any employee
21 or applicant who has resided in Oklahoma for less than three (3)
22 years for which a search is required.

23 B. On and after November 1, 2013:
24

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

4 a. an Oklahoma State Courts Network search conducted by
5 the Department,

6 b. a Child Care Restricted Registry search conducted by
7 the facility, and

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

10 2. Prior to employment of personnel:

11 a. an Oklahoma State Court Network search, conducted by
12 the Department, shall be requested by the facility,

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

15 c. a national criminal history records search pursuant to
16 paragraph 10 of this subsection shall be submitted to
17 the Department;

18 3. Prior to allowing unsupervised access to children by
19 personnel or individuals, including contract personnel and
20 volunteers:

21 a. Oklahoma State Courts Network search results,
22 conducted by the Department, shall be received by the
23 facility,

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

3 c. national criminal history records search results shall
4 be received by the facility;

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

8 a. an Oklahoma State Court Network search conducted by
9 the Department and the facility shall be in receipt of
10 the search results,

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

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

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

17 a. an Oklahoma State Court Network search conducted by
18 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 specified 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 children on an irregular basis when a
10 release for each event is signed by the parents noting their
11 understanding that the parent volunteer does not have a completed
12 national criminal history records search. This exemption shall not
13 preclude the Department from requesting a national fingerprint or an
14 Oklahoma State Bureau of Investigation name-based criminal history
15 records search or investigating criminal, abusive, or harmful
16 behavior of such individuals, if warranted;

17 9. A national criminal history records search pursuant to
18 paragraph 10 of this subsection shall be required on or before
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 and the Federal Bureau of Investigation

1 pursuant to Section 150.9 of Title 74 of the Oklahoma
2 Statutes and the federal National Child Protection Act
3 and the federal Volunteers for Children Act with the
4 Department as the authorized agency,

5 b. be submitted and have results received between the
6 Department and the Oklahoma State Bureau of
7 Investigation through secure electronic transmissions,

8 c. include Oklahoma State Bureau of Investigation rap
9 bac, requiring the Oklahoma State Bureau of
10 Investigation to immediately notify the Department
11 upon receipt of subsequent criminal history activity,
12 and

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

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

18 C. 1. a. On and after September 1, 1998:

19 (1) any child-placing agency contracting with a
20 person for foster family home services or in any
21 manner for services for the care and supervision
22 of children shall also, prior to executing a
23 contract, complete:
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1 (a) a foster parent eligibility assessment for
2 the foster care provider except as otherwise
3 provided by divisions (2) and (4) of this
4 subparagraph, and

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

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

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

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

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

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

1 Services or the ~~Department of Juvenile Justice Office~~
2 of Juvenile Affairs prior to September 1, 1998. Such
3 existing foster care providers shall comply with the
4 provisions of this section, until otherwise provided
5 by rules of the Commission for Human Services or by
6 law.

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

23 (2) The Department of Human Services and ~~Department~~
24 ~~of Juvenile Justice~~ Office of Juvenile Affairs

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

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

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

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~~ Office
23 of Juvenile Affairs prior to September 1, 1998. Such
24 existing foster care providers shall comply with the

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

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

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

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

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

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~~ individuals, if warranted.

8 ~~E.~~ F. Except as otherwise provided by the Oklahoma Children's
9 Code and subsection ~~G~~ H 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.~~ G. ~~1.~~ 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~~ and federal
15 ~~law~~ laws.

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 and a national criminal
5 history records search based upon submission of fingerprints shall
6 include a search of Department of Corrections' files maintained
7 pursuant to the Sex Offenders Registration Act.

8 2. a. It shall be unlawful for ~~any person~~ individuals who ~~is~~
9 are required to register pursuant to the Sex Offenders
10 Registration Act to work with or provide services to
11 children or to reside in a child care facility and for
12 any employer who offers or provides services to
13 children to knowingly and willfully employ or contract
14 with, or allow continued employment of or contracting
15 with ~~any person~~ individuals who ~~is~~ are required to
16 register pursuant to the Sex Offenders Registration
17 Act. ~~Any person~~ Individuals required to register
18 pursuant to the Sex Offenders Registration Act who
19 ~~violates~~ violate any provision of ~~this act~~ Section 401
20 et seq. of this title shall, upon conviction, be
21 guilty of a felony punishable by incarceration in a
22 correctional facility for a period of not more than
23 five (5) years and a fine of not more than Five
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1 Thousand Dollars (\$5,000.00) or both such fine and
2 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~~ Section 404.1 of this title; and

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

15 C. The incorporation or domestication of a corporation
16 organized for the purpose of operating a child care facility shall
17 not exempt such corporation from compliance with the provisions of
18 ~~this act~~ Section 401 et seq. of this title.

19 D. An application for a license shall be made on forms provided
20 by the Department and in the manner prescribed. Temporary
21 authorization may be granted to allow the Department to investigate
22 the activities and standards of care of the applicant. The
23 Department may issue a license once it is satisfied that the
24 applicant meets the requirements as provided in ~~this act~~ Section 401

1 et seq. of this title. All licenses shall be in force unless
2 revoked as authorized by Section 407 of this title.

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

6 Section 405.3. A. On or before July 1, 2010, the Commission
7 for Human Services shall promulgate rules to establish and maintain
8 ~~a child care worker registry~~ the Child Care Restricted Registry,
9 accessible to the public through an ~~on-line~~ online database, to
10 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 1-1-105~~ of Title ~~10~~ 10A of the Oklahoma Statutes,
15 by ~~a person~~ an individual when the abuse or neglect
16 occurred to children while in the care of a child care
17 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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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, and residence in a licensed child care facility of ~~any~~
8 ~~person individuals~~ recorded ~~in~~ on the child care worker registry
9 restricted 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 405 or
20 407 of this title may, within ten (10) days after the revocation or
21 denial of the license, appeal to the district court of the county in
22 which the child care facility is maintained and operated by filing
23 with the clerk of the court a verified petition. Notice of such
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1 appeal shall be served on the Director of the Department within five
2 (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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