

1                   **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2                                   STATE OF OKLAHOMA

3                                   1st Session of the 54th Legislature (2013)

4   ENGROSSED SENATE  
5   BILL NO. 917

                                  By: David of the Senate

  and

  Nelson of the House

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8  
9           An Act relating to child care facilities; amending 10  
10       O.S. 2011, Section 402, which relates to definitions;  
11       adding new and modifying existing terms; amending 10  
12       O.S. 2011, Section 403, which relates to exemptions  
13       from certain acts; updating exemptions for certain  
14       child care facilities; amending 10 O.S. 2011, Section  
15       404, as amended by Section 1, Chapter 225, O.S.L.  
16       2012 (10 O.S. Supp. 2012, Section 404), which  
17       addresses minimum requirements and standards;  
18       updating references to the Department of Human  
19       Services; amending 10 O.S. 2011, Section 404.1, which  
20       relates to Child Care Restricted Registry searches;  
21       providing standards and procedures for licensing of  
22       child care facilities; making language gender  
23       neutral; authorizing the Office of Juvenile Affairs  
24       to directly request certain searches; amending 10  
          O.S. 2011, Section 404.3, which relates to liability  
          insurance for facilities; updating references to the  
          Department of Human Services; amending 10 O.S. 2011,  
          Section 405, as amended by Section 1, Chapter 353,  
          O.S.L. 2012 (10 O.S. Supp. 2012, Section 405), which  
          relates to temporary authorization of licenses;  
          updating statutory reference; amending 10 O.S. 2011,  
          Section 405.2, which relates to online child care  
          databases; updating references to the Department of  
          Human Services; amending 10 O.S. 2011, Section 405.3,  
          which relates to the Online Child Care Restricted  
          Registry; updating references to the Department of  
          Human Services; modifying procedure for recording  
          individuals on certain registry; amending 10 O.S.  
          2011, Section 406, which relates to investigations

1 and notice of violations; updating references to the  
2 Department of Human Services; amending 10 O.S. 2011,  
3 Section 407, which relates to revocation of licenses  
4 and refusals of issuance; updating references to the  
5 Department of Human Services; amending 10 O.S. 2011,  
6 Section 409, which relates to injunctions for  
7 violations; updating references to Oklahoma district  
8 attorneys; and providing an effective date.

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

10 SECTION 1. AMENDATORY 10 O.S. 2011, Section 402, is  
11 amended to read as follows:

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

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

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

18 3. "Child care center" means a ~~facility which provides care and~~  
19 ~~supervision for children and which~~ program that operates for more  
20 ~~than~~ thirty (30) or more hours per week;

21 4. "Child care facility" means any public or private child care  
22 residential facility, child-placing agency, foster family home,  
23 child care center, part-day ~~child care~~ program, ~~school-age~~ out-of-  
24 school time program, ~~summer~~ day camp, drop-in program, program for  
sick children, family child care home, or large family child care

1 home providing either full-time or part-time care for children away  
2 from their own homes;

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

6 6. "Foster family home" means the private residence of a family  
7 which provides foster care services to a child, and includes a  
8 specialized foster home, a therapeutic foster family home, or a  
9 kinship care home;

10 7. "Foster parent eligibility assessment" includes a criminal  
11 background investigation, including, but not limited to, a national  
12 criminal history records search based upon the submission of  
13 fingerprints, a home assessment, and any other assessment required  
14 by the Department of Human Services, the Office of Juvenile Affairs,  
15 or any child-placing agency pursuant to the provisions of ~~the~~  
16 ~~Oklahoma Foster Care and Out-of-Home Placement Act~~ Section 1-7-106  
17 of Title 10A of the Oklahoma Statutes. A foster parent eligibility  
18 assessment shall be similar to the procedures used by the Department  
19 of Public Safety for determining suitability of an individual for  
20 employment as a highway patrol officer;

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

23 9. "Department" means the Department of Human Services;

24

1       ~~10.~~ 9. "Division" means the section within the Department that  
2 is assigned responsibilities pursuant to the provisions of the  
3 Oklahoma Child Care Facilities Licensing Act;

4       ~~11.~~ 10. "Family child care home" means a family home which  
5 provides care and supervision for seven or fewer children for part  
6 of the twenty-four-hour day. The term "family child care home"  
7 shall not include informal arrangements which parents make  
8 independently with neighbors, friends, and others, or with  
9 caretakers in the child's own home;

10       ~~12.~~ 11. "Full-time care" means continuous care given to a child  
11 beyond a minimum period of twenty-four (24) hours;

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

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

18       14. "Program" means the business entity that provides care,  
19 supervision, and learning opportunities for children;

20       15. "Rap back" means ~~the capability of a notification from the~~  
21 Oklahoma State Bureau of Investigation ~~to notify child care~~  
22 ~~facilities to the Department~~ of subsequent criminal activity of  
23 individuals whose criminal background checks have been completed  
24

1 pursuant to the requirements of the Oklahoma Child Care Facilities  
2 Licensing Act; and

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

6 17. "Responsible entity" means an individual who is authorized  
7 to obligate the business; and

8 18. "Specialized service professional" means an individual from  
9 an academic discipline or field of expertise who provides  
10 individualized services to a child, such as behavioral or physical  
11 therapists.

12 SECTION 2. AMENDATORY 10 O.S. 2011, Section 403, is  
13 amended to read as follows:

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

16 1. Care provided in a child's own home or by relatives;

17 2. Informal arrangements which parents make with friends or  
18 neighbors for the occasional care of their children;

19 3. Programs in which school-aged children three (3) years of  
20 age and older are participating in home-schooling;

21 4. Programs that serve children three (3) years of age and  
22 older and that are operated during typical school hours by a public  
23 school district;

24

1           5. Programs that serve children three (3) years of age and  
2 older and that are operated during typical school hours by a private  
3 school that offers elementary education in grades kindergarten  
4 through third grade;

5           6. Summer youth camps for children who are at least five (5)  
6 years of age, that are accredited by a national standard-setting  
7 agency or church camp accreditation program;

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

10          8. A program of specialized activity or instruction for  
11 children that is not designed or intended for child care purposes  
12 including, but not limited to, scouts, 4-H clubs and summer resident  
13 youth camps, programs that limit children from enrolling in multiple  
14 sessions because of the type of activity or ages accepted, and  
15 single-activity programs such as academics, athletics, gymnastics,  
16 hobbies, art, music, dance and craft instruction;

17          9. Any child care facility that:

18           a. provides care and supervision for fifteen (15) or  
19 fewer hours per week,

20           b. operates less than eight (8) weeks annually, or

21           c. operates in the summer for less than eight (8) hours  
22 per day;

23          10. Facilities whose primary purpose is medical treatment;  
24

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

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

12 12. Day treatment programs and maternity homes operated by a  
13 licensed hospital; ~~or~~

14 13. Juvenile facilities certified by the Office of Juvenile  
15 Affairs or certified by any other state agency authorized by law to  
16 license such facilities;

17 14. A program where children are not enrolled by the parents  
18 and are free to come and go;

19 15. A program in tribal land as defined at 25 U.S.C.A. 1903  
20 (10); and

21 16. A program on a military base or federal property.

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

1 SECTION 3. AMENDATORY 10 O.S. 2011, Section 404, as  
2 amended by Section 1, Chapter 225, O.S.L. 2012 (10 O.S. Supp. 2012,  
3 Section 404), is amended to read as follows:

4 Section 404. A. 1. The Department of Human Services shall  
5 appoint advisory committees of representatives of child care  
6 facilities and others to:

7 a. prepare minimum requirements and desirable standards  
8 for promulgation by the ~~Commission for Human Services~~  
9 Department, and

10 b. provide advice regarding concerns brought by child  
11 care facilities or referred by the Department to  
12 assist facilities in meeting minimum requirements.

13 2. Committee members shall be appointed for a three-year term,  
14 with a two-consecutive-term limit. A majority of any committee  
15 appointed to prepare requirements and standards for child care  
16 facilities shall be representatives of child care facilities.

17 3. The advisory committee shall create a Child Care Facility  
18 Peer Review Board whose purpose shall be to participate in the  
19 Department's grievance process. The ~~Commission~~ Department shall  
20 promulgate rules specifying the duties of the Child Care Facility  
21 Peer Review Board in the grievance process.

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

24



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

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

12 E. In order to improve the standards of child care, the  
13 Department shall advise and cooperate with licensees, the governing  
14 bodies and staff of licensed child care facilities and assist the  
15 staff through advice of progressive methods and procedures, and  
16 suggestions for the improvement of services.

17 F. The Department may participate in federal programs for child  
18 care services, and enter into agreements or plans on behalf of the  
19 state for that purpose, in accordance with federal laws and  
20 regulations.

21 SECTION 4. AMENDATORY 10 O.S. 2011, Section 404.1, is  
22 amended to read as follows:

23 Section 404.1.  
24

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

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

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

22 ~~2. a. Prior to the employment of any person in a child care~~  
23 ~~facility, the facility shall submit to the Department~~  
24

1 ~~of Human Services division responsible for child care~~  
2 ~~licensing:~~

3 ~~(1) a criminal history records search conducted by~~  
4 ~~the Oklahoma State Bureau of Investigation,~~

5 ~~(2) documentation of a records search of the Oklahoma~~  
6 ~~Child Care Restricted Registry, and~~

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

10 ~~b. Hospitals contracting with the Oklahoma Health Care~~  
11 ~~Authority and complying with the records searches~~  
12 ~~required by this section shall be exempt from the~~  
13 ~~requirement to submit such documentation to the~~  
14 ~~Department. Documentation of records searches shall~~  
15 ~~be maintained at the hospital and shall be available~~  
16 ~~for review by the division of the Department~~  
17 ~~responsible for child care licensing.~~

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

- ~~(1) a criminal history records search conducted by the Oklahoma State Bureau of Investigation,~~
- ~~(2) documentation of a records search of the Oklahoma Child Care Restricted Registry, and~~
- ~~(3) a request for the Department to conduct a records search of the Oklahoma State Courts Network.~~

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

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

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

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

7       ~~B.~~ A. On and after November 1, 2013:

8       1. Prior to the issuance of a permit or license, ~~individuals~~  
9 owners and responsible entities making ~~application~~ a request to  
10 establish or operate a child care facility shall have:

11           a. an Oklahoma State Courts Network search conducted by  
12           the Department,

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

15           c. a national criminal history records search conducted  
16           pursuant to paragraph 10 of this subsection,

17           d. a criminal history records search conducted by an  
18           authorized source, when the individual has lived  
19           outside the United States within the last three (3)  
20           years, and

21           e. a search of the Department of Corrections' files  
22           maintained pursuant to the Sex Offenders Registration  
23           Act and conducted by the Department of Human Services;

24       2. Prior to the employment of ~~employees~~ an individual:

- 1 a. an Oklahoma State ~~Court~~ Courts Network search,  
2 conducted by the Department, shall be ~~requested~~  
3 received by the facility,
- 4 b. a Child Care Restricted Registry search shall be  
5 conducted by the facility with notification of the  
6 search submitted to the Department, and
- 7 c. a national criminal history records search pursuant to  
8 paragraph 10 of this subsection shall be submitted ~~to~~  
9 ~~the Department,~~
- 10 d. a criminal history records search conducted by an  
11 authorized source, when the individual has lived  
12 outside the United States within the last three (3)  
13 years, shall be submitted to the Department, and
- 14 e. a search of the Department of Corrections' files  
15 maintained pursuant to the Sex Offenders Registration  
16 Act shall be conducted by the Department and received  
17 by the facility;

18 3. Prior to allowing unsupervised access to children by  
19 employees or individuals, including contract employees and  
20 volunteers and excluding the exceptions in paragraph 8 of this  
21 subsection:

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

1 b. a Child Care Restricted Registry search shall be  
2 conducted by the facility with notification of the  
3 search submitted to the Department, and

4 c. national criminal history records search results  
5 pursuant to paragraph 10 of this subsection shall be  
6 received by the facility,

7 d. a criminal history records search conducted by an  
8 authorized source, when the individual has lived  
9 outside the United States within the last three (3)  
10 years shall be submitted to the Department, and

11 e. a search of the Department of Corrections' files  
12 maintained pursuant to the Sex Offenders Registration  
13 Act shall be conducted by the Department and received  
14 by the facility;

15 4. Prior to the issuance of a permit or license and prior to  
16 the residence of adults who subsequently move into a facility,  
17 adults living in the facility excluding the exception in paragraph 7  
18 of this subsection shall have:

19 a. an Oklahoma State ~~Court~~ Courts Network search  
20 conducted by the Department and the facility shall be  
21 in receipt of the search results,

22 b. a Child Care Restricted Registry search conducted by  
23 the facility with notification of the search submitted  
24 to the Department, and

1 c. a national criminal history records search conducted  
2 pursuant to paragraph 10 of this subsection,

3 d. a criminal history records search conducted by an  
4 authorized source, when the individual has lived  
5 outside the United States within the last three (3)  
6 years, and

7 e. a search of the Department of Corrections' files  
8 maintained pursuant to the Sex Offenders Registration  
9 Act conducted by the Department and received by the  
10 facility;

11 5. Children who reside in the facility and turn eighteen (18)  
12 years of age excluding the exception in paragraph 7 of this  
13 subsection shall have:

14 a. an Oklahoma State ~~Court~~ Courts Network search  
15 conducted by the Department,

16 b. a Child Care Restricted Registry search conducted by  
17 the facility with notification of the search submitted  
18 to the Department, and

19 c. a national criminal history records search conducted  
20 pursuant to paragraph 10 of this subsection, and

21 d. a search of the Department of Corrections' files  
22 pursuant to the Sex Offenders Registration Act  
23 conducted by the Department and received by the  
24 facility;



1           6. Prior to review of ~~and~~ or access to fingerprint results,  
2 owners, responsible entities, directors, and other ~~employees~~  
3 individuals who have review of ~~and~~ or access to fingerprint results  
4 shall have a national criminal history records search pursuant to  
5 paragraph 10 of this subsection;

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

9           8. A national criminal history records search pursuant to  
10 paragraph 10 of this subsection shall not be required for ~~parent~~  
11 volunteers who transport children on an irregular basis when a  
12 release ~~for each event~~ is signed by the ~~parents~~ parent or legal  
13 guardian noting their understanding that the ~~parent~~ volunteer does  
14 not have a completed national criminal history records search. ~~This~~  
15 ~~exemption~~ The provisions in paragraph 3 of this subsection shall not  
16 be required for specialized service professionals who are not  
17 employed by the program and have unsupervised access to a child when  
18 a release is signed by the parent or legal guardian noting his or  
19 her understanding of this exception. These exceptions shall not  
20 preclude the Department from requesting a national fingerprint or an  
21 Oklahoma State Bureau of Investigation name-based criminal history  
22 records search or investigating criminal, abusive, or harmful  
23 behavior of such individuals, if warranted;

24

1           9. A national criminal history records search pursuant to  
2 paragraph 10 of this subsection shall be required on or before  
3 November 1, 2016, for existing owners, responsible entities,  
4 employees, individuals with unsupervised access to children, and  
5 adults living in the facility, as of November 1, 2013 unless  
6 paragraph 6 of this subsection applies;

7           10. The Department shall require a national criminal history  
8 records search based upon submission of fingerprints that shall:

- 9           a. be conducted by the Oklahoma State Bureau of  
10           Investigation and the Federal Bureau of Investigation  
11           pursuant to Section 150.9 of Title 74 of the Oklahoma  
12           Statutes and the federal National Child Protection Act  
13           and the federal Volunteers for Children Act with the  
14           Department as the authorized agency,
- 15           b. be submitted and have results received between the  
16           Department and the Oklahoma State Bureau of  
17           Investigation through secure electronic transmissions,
- 18           c. include Oklahoma State Bureau of Investigation rap  
19           back, requiring the Oklahoma State Bureau of  
20           Investigation to immediately notify the Department  
21           upon receipt of subsequent criminal history activity,  
22           and
- 23           d. be paid by the individual or the facility; ~~and~~

1        11. ~~The Commission for Human Services~~ director of the  
2 Department, or designee, shall promulgate rules that may authorize  
3 an exception to the fingerprinting requirements for individuals who  
4 have a severe physical condition which precludes such individuals  
5 from being fingerprinted; and

6        12. The Office of Juvenile Affairs may directly request  
7 national criminal history records searches as defined by Section  
8 150.9 of Title 74 of the Oklahoma Statutes from the Oklahoma State  
9 Bureau of Investigation for the purpose of obtaining the national  
10 criminal history of any employee or applicant who has resided in  
11 Oklahoma for less than three (3) years for which a search is  
12 required.

13        ~~€.~~

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

15                (1) any child-placing agency contracting with a  
16                                person for foster family home services or in any  
17                                manner for services for the care and supervision  
18                                of children shall also, prior to executing a  
19                                contract, complete:

20                                (a) a foster parent eligibility assessment for  
21    the foster care provider except as otherwise  
22    provided by divisions (2) and (4) of this  
23    subparagraph, and  
24

1 (b) a national criminal history records search  
2 based upon submission of fingerprints for  
3 any adult residing in the foster family home  
4 through the Department of Human Services  
5 pursuant to the provisions of ~~the Oklahoma~~  
6 ~~Foster Care and Out-of-Home Placement Act~~  
7 Section 1-7-106 of Title 10A of the Oklahoma  
8 Statutes, except as otherwise provided by  
9 divisions (2) and (4) of this subparagraph,

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

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

22 (4) provided, however, the Director of Human Services  
23 or the Director of the Office of Juvenile  
24 Affairs, or a designee, may authorize an

1                   exception to the fingerprinting requirement for a  
2                   person residing in the home who has a severe  
3                   physical condition which precludes such person's  
4                   being fingerprinted, and

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

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

1 section, until otherwise provided by rules of the  
2 ~~Commission for Human Services~~ Department or by law.

3 2. a. (1) On and after September 1, 1998, except as otherwise  
4 provided in divisions (2) and (4) of this  
5 subparagraph, prior to contracting with a foster  
6 family home for placement of any child who is in  
7 the custody of the Department of Human Services  
8 or the Office of Juvenile Affairs, each  
9 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 Office of  
20 Juvenile Affairs 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 Office of Juvenile Affairs or their 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 Office of Juvenile Affairs prior to  
18 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~~ Department or by law.

22 3. ~~Each~~ The Department of Human Services or the Office of  
23 Juvenile Affairs shall provide for a juvenile justice information  
24 system review pursuant to Section 2-7-308 of Title 10A of the

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

4 ~~D. C.~~ The Commission for Human Services Department or the Board  
5 of 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 ~~E. 1. The following individuals shall not be required to~~  
13 ~~obtain a criminal history records search or a national criminal~~  
14 ~~history records search based upon submission of fingerprints~~  
15 ~~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 individuals, if warranted.~~

3 ~~F. D.~~ Except as otherwise provided by the Oklahoma Children's  
4 Code and subsection ~~H~~ F 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 ~~G. E.~~ Information received pursuant to this section by an  
8 owner, ~~or~~ administrator, or responsible entity of a child care  
9 facility, shall be maintained in a confidential manner pursuant to  
10 applicable state and federal laws.

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

16 ~~2. a.~~

17 F. 1. It shall be unlawful for individuals who are required to  
18 register pursuant to the Sex Offenders Registration Act to work with  
19 or provide services to children or to reside in a child care  
20 facility and for any employer who offers or provides services to  
21 children to knowingly and willfully employ or contract with, or  
22 allow continued employment of or contracting with individuals who  
23 are required to register pursuant to the Sex Offenders Registration  
24 Act. Individuals required to register pursuant to the Sex Offenders

1 Registration Act who violate any provision of Section 401 et seq. of  
2 this title shall, upon conviction, be guilty of a felony punishable  
3 by incarceration in a correctional facility for a period of not more  
4 than five (5) years and a fine of not more than Five Thousand  
5 Dollars (\$5,000.00) or both such fine and imprisonment.

6 ~~b.~~

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

10 ~~(1)~~

11 a. an emergency order,

12 ~~(2)~~

13 b. license revocation or denial,

14 ~~(3)~~

15 c. injunctive proceedings,

16 ~~(4)~~

17 d. an administrative penalty not to exceed Ten Thousand

18 Dollars (\$10,000.00), and

19 ~~(5)~~

20 e. referral for criminal proceedings.

21 ~~e.~~

22 3. In addition to the penalties specified by this section, the  
23 violator may be liable for civil damages.

24

1 SECTION 5. AMENDATORY 10 O.S. 2011, Section 404.3, is  
2 amended to read as follows:

3 Section 404.3. A. A child care facility shall maintain  
4 liability insurance coverage of at least Two Hundred Thousand  
5 Dollars (\$200,000.00) for each occurrence of negligence. An  
6 insurance policy or contract required under this section shall cover  
7 injury to a child due to negligence that occurs while the child is  
8 in the care of the child care facility.

9 B. The Department of Human Services shall promulgate rules  
10 providing for a standard form to be signed and dated by an insurance  
11 agent licensed in this state stating that the child care facility  
12 has an unexpired and uncanceled insurance policy or contract of at  
13 least Two Hundred Thousand Dollars (\$200,000.00) that meets the  
14 requirements of this section. This form shall be completed annually  
15 and shall be maintained by the child care facility. Upon request,  
16 the form shall be made available to the Department to determine  
17 compliance with licensing requirements.

18 C. Should the child care facility for financial reasons or for  
19 lack of availability of an underwriter willing to issue a policy be  
20 unable to secure the insurance required under subsection A of this  
21 section, should the policy limits be exhausted, or if the child care  
22 facility reports self-insurance in accordance with state law the  
23 child care facility shall:

24

1           1. Post a notice at the facility indicating the facility does  
2 not have liability insurance coverage pursuant to this section or  
3 reports self-insurance in accordance with state law; and

4           2. Notify the Department that coverage is not provided or that  
5 the facility reports self-insurance in accordance with state law.

6           D. The ~~Commission for Human Services~~ Department shall  
7 promulgate rules providing for a standard form for the facility to  
8 post which indicates the facility does not carry liability insurance  
9 or reports self-insurance in accordance with state law. In no case  
10 shall the inability to secure coverage serve to indemnify the child  
11 care facility due to negligence.

12           E. The insurance policy or contract shall be maintained at all  
13 times in an amount as required by this section, except as provided  
14 for in subsection C of this section.

15           F. The requirements for posting shall not apply to:

- 16           1. Licensed child-placing agencies;  
17           2. Licensed residential child care facilities; or  
18           3. Department-certified child care facilities.

19           G. The ~~Commission~~ Department may promulgate rules requiring  
20 liability insurance for facilities listed in subsection F of this  
21 section.

22           H. Failure by a child care facility to comply with the  
23 provisions of this section is grounds for suspension or revocation  
24

1 of the child care facility license under the Oklahoma Child Care  
2 Facilities Licensing Act.

3 SECTION 6. AMENDATORY 10 O.S. 2011, Section 405, as  
4 amended by Section 1, Chapter 353, O.S.L. 2012 (10 O.S. Supp. 2012,  
5 Section 405), is amended to read as follows:

6 Section 405. A. No child care facility may be operated or  
7 maintained in this state, unless licensed or temporarily authorized  
8 by the Department of Human Services, except for the shelters  
9 certified by the Office of Juvenile Affairs pursuant to Section 2-7-  
10 202 of Title 10A of the Oklahoma Statutes; ~~provided, that the~~  
11 ~~Department shall not be required to be licensed, but shall be bound~~  
12 ~~by the standards it prescribes.~~ No new child care facility may be  
13 established without the prior approval of the Department, which  
14 shall be granted only after the Department is satisfied that the  
15 facility will meet minimum standards for a license to operate.

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

19 1. All background investigation requirements are met pursuant  
20 to Section 404.1 of this title; and

21 2. All required training including, but not limited to,  
22 cardiopulmonary resuscitation (CPR), first aid, health and safety  
23 training, and minimum education requirements pursuant to licensing  
24

1 requirements have been completed for any person left alone with  
2 children.

3 C. The incorporation or domestication of a corporation  
4 organized for the purpose of operating a child care facility shall  
5 not exempt such corporation from compliance with the provisions of  
6 Sections 401 through 418 of this title.

7 D. An application for a license shall be made on forms provided  
8 by the Department and in the manner prescribed. Temporary  
9 authorization may be granted to allow the Department to investigate  
10 the activities and standards of care of the applicant. The  
11 Department may issue a license once it is satisfied that the  
12 applicant meets the requirements as provided in Sections 401 through  
13 418 of this title. All licenses shall be in force unless revoked as  
14 authorized by Section 407 of this title.

15 SECTION 7. AMENDATORY 10 O.S. 2011, Section 405.2, is  
16 amended to read as follows:

17 Section 405.2. A. ~~The Commission for Human Services~~ Department  
18 of Human Services shall promulgate rules to establish and maintain  
19 an online database accessible to the public that contains  
20 information including, but not limited to:

21 1. The name, address, and phone number of all child care  
22 centers licensed by the Department of Human Services, and the name,  
23 address, and phone number of all child care homes licensed by the  
24 Department; and

1           2. A summary of substantiated complaint records and inspection  
2 reports generated by the Department.

3           B. Child care licensing records and inspection reports shall be  
4 maintained by the facility and be posted or made available to  
5 individuals pursuant to the licensing requirements promulgated by  
6 the ~~Commission~~ Department.

7           SECTION 8.           AMENDATORY           10 O.S. 2011, Section 405.3, is  
8 amended to read as follows:

9           Section 405.3. A. On or before July 1, 2010, the ~~Commission~~  
10 ~~for Human Services~~ Department of Human Services shall promulgate  
11 rules to establish and maintain the Child Care Restricted Registry,  
12 accessible to the public through an online database, to address:

13           1. A procedure for recording individuals on the restricted  
14 registry resulting from:

15           a. a finding of abuse or neglect, as defined in Section  
16 1-1-105 of Title 10A of the Oklahoma Statutes, by an  
17 individual when the abuse or neglect occurred to  
18 children while in the care of a child care facility  
19 licensed by the Department,

20           b. a revocation or denial of a child care facility  
21 license, and

22           c. a specified criminal history of an individual, as  
23 defined by rules promulgated by the ~~Oklahoma~~  
24 ~~Commission for Human Services~~ Department;

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

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

5           4. A procedure to prohibit licensure, ownership, employment,  
6 unsupervised access to children, or residence in a child care  
7 facility licensed by the Department of individuals recorded on the  
8 restricted registry.

9           B. The Child Care Restricted Registry shall include, but not be  
10 limited to:

11           1. The full name of the individual;

12           2. Information necessary to identify the individual; and

13           3. The date the individual was recorded on the restricted  
14 registry.

15           SECTION 9.           AMENDATORY           10 O.S. 2011, Section 406, is  
16 amended to read as follows:

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

23           B. 1. The State Department of Health may visit any licensee or  
24 applicant at the request of the Department to advise on matters



1 affecting the health of children and to inspect the sanitation of  
2 the buildings used for their care.

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

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

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

23 2. If the Department determines there has been a violation and  
24 the violation has a direct impact on the health, safety or well-

1 being of one or more of the children cared for by the facility, the  
2 Department shall notify the facility and require correction of the  
3 violation.

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

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

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

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

12 SECTION 10. AMENDATORY 10 O.S. 2011, Section 407, is  
13 amended to read as follows:

14 Section 407. A. The Department of Human Services may revoke or  
15 deny issuance of the license of any child care facility found to be  
16 in violation of any provision of this act or the rules of the  
17 ~~Commission for Human Services~~ Department, as provided in Section 404  
18 of this title.

19 B. 1. No license shall be revoked or issuance denied unless  
20 and until such time as the licensee or applicant shall have been  
21 given at least thirty (30) days' notice in writing of the grounds of  
22 the proposed revocation or denial.

23 2. At the time the facility is given notice in writing of the  
24 revocation or denial of a license, the Department shall also advise

1 parents of children attending the facility and the child care  
2 resource and referral organization within one (1) business day of  
3 such action by verbal, electronic, or written notification and the  
4 posting of an announcement in the facility.

5 3. If the revocation or denial is protested within thirty (30)  
6 days of receipt of notice, by writing addressed to the ~~Commission~~  
7 ~~for Human Services~~ Department, the ~~Commission~~ Department, or its  
8 authorized agency, shall conduct a hearing at which an opportunity  
9 shall be given to the licensee or applicant to present testimony and  
10 confront witnesses.

11 4. Notice of the hearing shall be given to the licensee or  
12 applicant by personal service or by delivery to the proper address  
13 by certified mail, return receipt requested, at least two (2) weeks  
14 prior to the date thereof.

15 5. If notice of the proposed revocation or denial of a license  
16 is not protested, the license shall be revoked or denied.

17 C. 1. Nothing in this section or Section 406 of this title  
18 shall be construed as preventing the Department from taking  
19 emergency action as provided by this subsection.

20 2. For the purposes of this subsection, "emergency" means a  
21 situation that poses a direct and serious threat to the health,  
22 safety, or welfare of any child cared for by the facility.

23 3. Whenever the Department finds, after an investigation, that  
24 an emergency exists requiring immediate action to protect the

1 health, safety, or welfare of any child cared for by a facility  
2 licensed, authorized, or providing unlicensed care except as  
3 exempted by the provisions of the Oklahoma Child Care Facilities  
4 Licensing Act, the Department may without notice or hearing issue an  
5 emergency order stating the existence of such an emergency and  
6 requiring that such action be taken as it deems necessary to meet  
7 the emergency including, when necessary, removing children from the  
8 facility and prohibiting the facility from providing services to  
9 children pending a hearing on the matter.

10 a. An emergency order shall be effective immediately.

11 Any person to whom an emergency order is directed  
12 shall comply with the emergency order immediately but,  
13 upon written request to the Department on or before  
14 the tenth day after receipt of the emergency order,  
15 shall be afforded a hearing on or before the tenth day  
16 after receipt of the request by the Department.

17 b. On the basis of such hearing, the Department shall  
18 continue the order in effect, revoke it, or modify it.

19 c. Any person aggrieved by the order continued after the  
20 hearing provided for in this subsection may appeal to  
21 the district court of the area affected within ten  
22 (10) days. The appeal when docketed shall have  
23 priority over all cases pending on the docket, except  
24 criminal cases.

1 D. The Department shall establish a process to review the  
2 initial determination of the closure of a facility due to an  
3 emergency pursuant to the licensing requirements promulgated by the  
4 ~~Commission~~ Department.

5 E. The Department shall continue to monitor any facility whose  
6 license has been revoked, denied, or who has had an emergency order  
7 issued for a period of thirty (30) days after the action becomes  
8 final.

9 F. In addition to any other remedy authorized by this act, a  
10 CLEET-certified officer may issue a citation for a violation of any  
11 provision of this act or rules of the ~~Commission for Human Services~~  
12 Department as provided in Section 404 of this title. The fine shall  
13 not be less than One Hundred Dollars (\$100.00) nor more than Five  
14 Hundred Dollars (\$500.00) for every day the facility maintains and  
15 receives children after:

- 16 1. An emergency order has been issued; or
- 17 2. An application for a license has been denied or the license  
18 has been revoked.

19 G. One-half (1/2) of the funds collected pursuant to subsection  
20 F of this section shall be deposited in the Quality of Care  
21 Development Fund established in Section 10 of this act and one-half  
22 (1/2) shall be retained by the law enforcement agency represented by  
23 the CLEET-certified officer.

24

1 SECTION 11. AMENDATORY 10 O.S. 2011, Section 409, is  
2 amended to read as follows:

3 Section 409. Any person or child care facility may be enjoined  
4 from maintaining and operating such facility for violations of any  
5 provisions of this act by suit brought in the name of the state by  
6 the Attorney General of Oklahoma or by a ~~county~~ district attorney.

7 SECTION 12. This act shall become effective November 1, 2013.  
8

9 COMMITTEE REPORT BY: COMMITTEE ON HUMAN SERVICES, dated 04/04/2013 -  
10 DO PASS.  
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