

1 ENGROSSED HOUSE AMENDMENT
TO
2 ENGROSSED SENATE BILL NO. 1424 By: David of the Senate
3 and
4 Ownbey of the House
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7 An Act relating to child care facilities; amending 10
8 O.S. 2011, Section 404.1, as last amended by Section
9 1, Chapter 115, O.S.L. 2015 (10 O.S. Supp. 2015,
10 Section 404.1), which relates to licensing; requiring
11 certain records search for certain persons and
12 entities; directing Oklahoma State Bureau of
13 Investigation to provide certain records search upon
14 request of certain persons and entities; permitting
15 release of certain information to certain facilities;
16 requiring certain information be maintained in a
17 confidential manner; amending 10A O.S. 2011, Section
18 2-7-602, which relates to administration; authorizing
19 certain entities to request records searches from
20 Oklahoma State Bureau of Investigation; deleting
21 statutory reference; requiring records search for
22 certain persons and entities; permitting fees by
23 Oklahoma State Bureau of Investigation for certain
24 purposes; providing for deposit of certain funds;
authorizing certain agreement; permitting
promulgation of certain rules; providing for
codification; and providing an effective date.

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20 AMENDMENT NO. 1. Strike the title, enacting clause and entire bill
and insert

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22 "An Act relating to child care facilities; amending
23 10 O.S. 2011, Section 404.1, as last amended by
24 Section 1, Chapter 115, O.S.L. 2015 (10 O.S. Supp.
2015, Section 404.1), which relates to licensing;
requiring certain records search for certain persons
and entities; directing Oklahoma State Bureau of

1 Investigation to provide certain records search upon
2 request of Office of Juvenile Affairs; permitting
3 release of certain information to certain
4 facilities; requiring certain information be
5 maintained in a confidential manner; amending 10A
6 O.S. 2011, Section 2-7-602, which relates to
7 administration; deleting statutory reference;
8 requiring records search for certain persons and
9 entities; permitting fees by Oklahoma State Bureau
10 of Investigation for certain purposes; providing for
11 deposit of certain funds; authorizing certain
12 agreement; permitting promulgation of certain rules;
13 providing for codification; and providing an
14 effective date.

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

SECTION 1. AMENDATORY 10 O.S. 2011, Section 404.1, as
last amended by Section 1, Chapter 115, O.S.L. 2015 (10 O.S. Supp.
2015, Section 404.1), is amended to read as follows:

Section 404.1 A. On and after November 1, 2013:

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

- a. an Oklahoma State Courts Network search conducted by
the Department,
- b. a Child Care Restricted Registry search conducted by
the facility,
- c. a national criminal history records search conducted
pursuant to paragraph 10 of this subsection,

- 1 d. a criminal history records search conducted by an
2 authorized source, when the individual has lived
3 outside the United States within the last three (3)
4 years, and
- 5 e. a search of the Department of Corrections' files
6 maintained pursuant to the Sex Offenders Registration
7 Act and conducted by the Department of Human Services;

8 2. Prior to the employment of an individual:

- 9 a. an Oklahoma State Courts Network search, conducted by
10 the Department, shall be requested and received by the
11 facility; provided however, if twenty-four (24) hours
12 has passed from the time the request to the Department
13 was made, the facility may initiate employment,
14 notwithstanding the provisions of this paragraph,
- 15 b. a Child Care Restricted Registry search shall be
16 conducted by the facility with notification of the
17 search submitted to the Department,
- 18 c. a national criminal history records search pursuant to
19 paragraph 10 of this subsection shall be submitted,
- 20 d. a criminal history records search conducted by an
21 authorized source, when the individual has lived
22 outside the United States within the last three (3)
23 years, shall be submitted to the Department, and
24

1 e. a search of the Department of Corrections' files
2 maintained pursuant to the Sex Offenders Registration
3 Act shall be conducted by the Department and received
4 by the facility;

5 3. Prior to allowing unsupervised access to children by
6 employees or individuals, including contract employees and
7 volunteers and excluding the exceptions in paragraph 8 of this
8 subsection:

9 a. Oklahoma State Courts Network search results,
10 conducted by the Department, shall be received by the
11 facility,

12 b. a Child Care Restricted Registry search shall be
13 conducted by the facility with notification of the
14 search submitted to the Department,

15 c. national criminal history records search results
16 pursuant to paragraph 10 of this subsection shall be
17 received by the facility,

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

22 e. a search of the Department of Corrections' files
23 maintained pursuant to the Sex Offenders Registration
24

1 Act shall be conducted by the Department and received
2 by the facility;

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

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

1 5. Children who reside in the facility and turn eighteen (18)
2 years of age excluding the exception in paragraph 7 of this
3 subsection 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 with notification of the search submitted
8 to the Department,

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

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

15 6. Prior to review of or access to fingerprint results, owners,
16 responsible entities, directors, and other individuals who have
17 review of or access to fingerprint results shall have a national
18 criminal history records search pursuant to paragraph 10 of this
19 subsection;

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

23 8. A national criminal history records search pursuant to
24 paragraph 10 of this subsection shall not be required for volunteers

1 who transport children on an irregular basis when a release is
2 signed by the parent or legal guardian noting their understanding
3 that the volunteer does not have a completed national criminal
4 history records search. The provisions in paragraph 3 of this
5 subsection shall not be required for specialized service
6 professionals who are not employed by the program and have
7 unsupervised access to a child when a release is signed by the
8 parent or legal guardian noting his or her understanding of this
9 exception. These exceptions shall not preclude the Department from
10 requesting a national fingerprint or an Oklahoma State Bureau of
11 Investigation name-based criminal history records search or
12 investigating criminal, abusive, or harmful behavior of such
13 individuals, if warranted;

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

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

22 a. be conducted by the Oklahoma State Bureau of
23 Investigation and the Federal Bureau of Investigation
24 pursuant to Section 150.9 of Title 74 of the Oklahoma

1 Statutes and the federal National Child Protection Act
2 and the federal Volunteers for Children Act with the
3 Department as the authorized agency,

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

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

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

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

18 12. The Office of Juvenile Affairs ~~may directly request~~ shall
19 require national criminal history records searches, as defined by
20 Section 150.9 of Title 74 of the Oklahoma Statutes ~~from,~~ which shall
21 be provided by the Oklahoma State Bureau of Investigation for the
22 purpose of obtaining the national criminal history records search,
23 including Rap Back notification of and through direct request by the
24 Office of Juvenile Affairs on behalf of any employee or applicant

1 ~~who has resided in Oklahoma for less than three (3) years for which~~
2 ~~a search is required:~~

- 3 a. operator or responsible entity making a request to
4 establish or operate a secure detention center,
5 municipal juvenile facility, community intervention
6 center or secure facility licensed or certified by the
7 Office of Juvenile Affairs,
- 8 b. employee or applicant of a secure detention center,
9 municipal juvenile facility, community intervention
10 center or secure facility licensed or certified by the
11 Office of Juvenile Affairs, or
- 12 c. persons allowed unsupervised access to children,
13 including contract employees or volunteers, of a
14 secure detention center, municipal juvenile facility,
15 community intervention center or secure facility
16 licensed or certified by the Office of Juvenile
17 Affairs.

18 B. 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:

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 Section 1-7-
10 106 of Title 10A of the Oklahoma Statutes,
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 Office of Juvenile
3 Affairs, 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 2-7-905
13 and 2-7-308 of Title 10A of the Oklahoma
14 Statutes, for any child over the age of thirteen
15 (13) years residing in the foster family home,
16 other than a foster child, or who subsequently
17 moves into the foster family home. As a
18 condition of contract, the child care facility
19 shall obtain the consent of the parent or legal
20 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 Office of Juvenile Affairs prior to

1 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 Department 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 Office of Juvenile Affairs, each
11 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 Office of
22 Juvenile Affairs 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 five (5)
3 years 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 shall also
7 be completed for any adult who subsequently moves
8 into the foster family home.

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

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

23 3. The Department of Human Services or the Office of Juvenile
24 Affairs shall provide for a juvenile justice information system

1 review pursuant to Section 2-7-308 of Title 10A of the Oklahoma
2 Statutes for any child over the age of thirteen (13) years residing
3 in a foster family home, other than the foster child, or who
4 subsequently moves into the foster family home.

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

13 D. Except as otherwise provided by the Oklahoma Children's Code
14 and subsection F of this section, a conviction for a crime shall not
15 be an absolute bar to employment, but shall be considered in
16 relation to specific employment duties and responsibilities.

17 E. 1. Information received pursuant to this section by an
18 owner, administrator, or responsible entity of a child care
19 facility, shall be maintained in a confidential manner pursuant to
20 applicable state and federal laws.

21 2. The information, along with any other information relevant
22 to the ability of the individual to perform tasks that require
23 direct contact with children, may be released to another child care
24 facility in response to a request from the child care facility that

1 is considering employing or contracting with the individual unless
2 deemed confidential by state and federal laws.

3 3. Requirements for confidentiality and recordkeeping with
4 regard to the information shall be the same for the child care
5 facility receiving the information in response to a request as those
6 provided for in paragraph 1 of this subsection for the child care
7 facility releasing such information.

8 4. Information received by any facility certified by the Office
9 of Juvenile Affairs may be released to another facility certified by
10 the Office if an individual is being considered for employment or
11 contract, along with any other relevant information, unless the
12 information is deemed confidential by state or federal law. Any
13 information received by the Office shall be maintained in a
14 confidential manner pursuant to applicable state and federal law.

15 F. 1. It shall be unlawful for individuals who are required to
16 register pursuant to the Sex Offenders Registration Act to work with
17 or provide services to children or to reside in a child care
18 facility and for any employer who offers or provides services to
19 children to knowingly and willfully employ or contract with, or
20 allow continued employment of or contracting with individuals who
21 are required to register pursuant to the Sex Offenders Registration
22 Act. Individuals required to register pursuant to the Sex Offenders
23 Registration Act who violate any provision of Section 401 et seq. of
24 this title shall, upon conviction, be guilty of a felony punishable

1 by incarceration in a correctional facility for a period of not more
2 than five (5) years and a fine of not more than Five Thousand
3 Dollars (\$5,000.00) or both such fine and imprisonment.

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

- 7 a. an emergency order,
- 8 b. license revocation or denial,
- 9 c. injunctive proceedings,
- 10 d. an administrative penalty not to exceed Ten Thousand
11 Dollars (\$10,000.00), and
- 12 e. referral for criminal proceedings.

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

15 SECTION 2. AMENDATORY 10A O.S. 2011, Section 2-7-602, is
16 amended to read as follows:

17 Section 2-7-602. A. The Office of Juvenile Affairs shall
18 establish and maintain such methods of administration, including
19 those necessary to establish and maintain a merit system of
20 personnel administration, and shall promulgate such rules as it
21 deems necessary for the efficient and effective operation of the
22 juvenile institutions and facilities operated by the Office.

23 B. The Executive Director of the Office of Juvenile Affairs
24 shall employ and fix the duties and compensation of a

1 superintendent, and such other personnel as the Executive Director
2 deems necessary, for each of the juvenile institutions and
3 facilities operated by the Office of Juvenile Affairs. The Office
4 shall promulgate, and in its hiring and employment practices, the
5 Office shall adhere to, written minimum qualifications by position
6 for personnel working with or around juveniles in said institutions
7 and facilities. Such minimum qualifications shall be designed to
8 assure that such personnel possess sufficient education, training,
9 experience and background to provide adequate and safe professional
10 care and services to said juveniles; and that the juveniles will not
11 be exposed to abuse, deprivation, criminal conduct, or other
12 unwholesome conditions attributable to employee incompetence or
13 misconduct.

14 C. 1. The Office of Juvenile Affairs may directly request
15 national criminal history records searches as defined by Section
16 150.9 of Title 74 of the Oklahoma Statutes from the Oklahoma State
17 Bureau of Investigation for the purpose of investigating the
18 criminal history of ~~an~~ any employee or applicant of the Office of
19 Juvenile Affairs. The Oklahoma State Bureau of Investigation may
20 charge a search fee as provided in Section 150.9 of Title 74 of the
21 Oklahoma Statutes. The fee shall be deposited in the OSBI Revolving
22 Fund.

23 2. The Board of Juvenile Affairs shall promulgate rules for the
24 Office of Juvenile Affairs to obtain national criminal history

1 ~~record searches in accordance with the requirements of Section 404.1~~
2 ~~of Title 10 of the Oklahoma Statutes~~ records for personnel described
3 in subsection B of this section, except that such rules may permit
4 employment of applicants pending receipt of the results of national
5 criminal history record searches.

6 D. The superintendent of a juvenile institution or facility
7 shall be the guardian of the person of each juvenile in the
8 institution or facility for the limited purpose of providing care
9 and protection for any life-threatening situation that may arise.

10 SECTION 3. NEW LAW A new section of law to be codified
11 in the Oklahoma Statutes as Section 2-7-617 of Title 10A, unless
12 there is created a duplication in numbering, reads as follows:

13 A. Prior to the issuing by the Office of Juvenile Affairs a
14 certification to any person or entity for a secure detention center,
15 municipal juvenile facility, community intervention center or secure
16 facility, such persons or entities shall have a national criminal
17 history records search conducted pursuant to paragraph 12 of
18 subsection A of Section 404.1 of Title 10 of the Oklahoma Statutes.

19 Such persons or entities shall include any:

- 20 1. Operators and responsible entities;
- 21 2. Individual employee or applicant; or
- 22 3. Employee or individual allowed unsupervised access to
23 children, including contract employees and volunteers.

24

1 B. The Oklahoma State Bureau of Investigation may charge a
2 search fee as provided in Section 150.9 of Title 74 of the Oklahoma
3 Statutes. The fee shall be deposited in the OSBI Revolving Fund.
4 The fee shall be paid for by the persons or entities identified in
5 subsection A of this section.

6 C. The Office of Juvenile Affairs and the Oklahoma State Bureau
7 of Investigation are authorized to enter into an agreement pursuant
8 to the Interlocal Cooperation Act, Section 1001 et seq. of Title 74
9 of the Oklahoma Statutes, to implement the provisions of this
10 section, including the transfer of funds to offset the cost
11 associated with national criminal history records searches.

12 D. The Board of Juvenile Affairs may promulgate rules to
13 implement the provisions of this act.

14 SECTION 4. This act shall become effective November 1, 2016."

15 Passed the House of Representatives the 12th day of April, 2016.

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18 _____
19 Presiding Officer of the House of
Representatives

20 Passed the Senate the ____ day of _____, 2016.

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23 _____
Presiding Officer of the Senate

24

1 ENGROSSED SENATE
2 BILL NO. 1424

By: David of the Senate

3 and

4 Ownbey of the House

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6 An Act relating to child care facilities; amending 10
7 O.S. 2011, Section 404.1, as last amended by Section
8 1, Chapter 115, O.S.L. 2015 (10 O.S. Supp. 2015,
9 Section 404.1), which relates to licensing; requiring
10 certain records search for certain persons and
11 entities; directing Oklahoma State Bureau of
12 Investigation to provide certain records search upon
13 request of certain persons and entities; permitting
14 release of certain information to certain facilities;
15 requiring certain information be maintained in a
16 confidential manner; amending 10A O.S. 2011, Section
17 2-7-602, which relates to administration; authorizing
18 certain entities to request records searches from
19 Oklahoma State Bureau of Investigation; deleting
20 statutory reference; requiring records search for
21 certain persons and entities; permitting fees by
22 Oklahoma State Bureau of Investigation for certain
23 purposes; providing for deposit of certain funds;
24 authorizing certain agreement; permitting
promulgation of certain rules; providing for
codification; and providing an effective date.

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

SECTION 1. AMENDATORY 10 O.S. 2011, Section 404.1, as
last amended by Section 1, Chapter 115, O.S.L. 2015 (10 O.S. Supp.
2015, Section 404.1), is amended to read as follows:

Section 404.1. A. On and after November 1, 2013:

1 1. Prior to the issuance of a permit or license, owners and
2 responsible entities making a request to establish or operate a
3 child care facility 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,

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

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, and

14 e. a search of the Department of Corrections' files
15 maintained pursuant to the Sex Offenders Registration
16 Act and conducted by the Department of Human Services;

17 2. Prior to the employment of an individual:

18 a. an Oklahoma State Courts Network search, conducted by
19 the Department, shall be requested and received by the
20 facility; provided however, if twenty-four (24) hours
21 has passed from the time the request to the Department
22 was made, the facility may initiate employment,
23 notwithstanding the provisions of this paragraph,
24

- 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,
4 c. a national criminal history records search pursuant to
5 paragraph 10 of this subsection shall be submitted,
6 d. a criminal history records search conducted by an
7 authorized source, when the individual has lived
8 outside the United States within the last three (3)
9 years, shall be submitted to the Department, and
10 e. a search of the Department of Corrections' files
11 maintained pursuant to the Sex Offenders Registration
12 Act shall be conducted by the Department and received
13 by the facility;

14 3. Prior to allowing unsupervised access to children by
15 employees or individuals, including contract employees and
16 volunteers and excluding the exceptions in paragraph 8 of this
17 subsection:

- 18 a. Oklahoma State Courts Network search results,
19 conducted by the Department, shall be received by the
20 facility,
21 b. a Child Care Restricted Registry search shall be
22 conducted by the facility with notification of the
23 search submitted to the Department,
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1 c. national criminal history records search results
2 pursuant to paragraph 10 of this subsection shall be
3 received by the facility,

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

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

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

16 a. an Oklahoma State Courts Network search conducted by
17 the Department and the facility shall be in receipt of
18 the search results,

19 b. a Child Care Restricted Registry search conducted by
20 the facility with notification of the search submitted
21 to the Department,

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23 pursuant to paragraph 10 of this subsection,
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1 d. a criminal history records search conducted by an
2 authorized source, when the individual has lived
3 outside the United States within the last three (3)
4 years, and

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

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

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13 the Department,

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

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

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

23 6. Prior to review of or access to fingerprint results, owners,
24 responsible entities, directors, and other individuals who have

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

22 9. A national criminal history records search pursuant to
23 paragraph 10 of this subsection shall be required on or before
24 November 1, 2016, for existing owners, responsible entities,

1 employees, individuals with unsupervised access to children, and
2 adults living in the facility, as of November 1, 2013, unless
3 paragraph 6 of this subsection applies;

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

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

21 11. The director of the Department, or designee, shall
22 promulgate rules that may authorize an exception to the
23 fingerprinting requirements for individuals who have a severe
24

1 physical condition which precludes such individuals from being
2 fingerprinted; and

3 12. The Office of Juvenile Affairs ~~may directly request~~ shall
4 require national criminal history records searches, as defined by
5 Section 150.9 of Title 74 of the Oklahoma Statutes ~~from the,~~ which
6 shall be provided by the Oklahoma State Bureau of Investigation for
7 the purpose of obtaining the national criminal history records
8 search, including rap back notification of and through direct
9 request by any employee or applicant who has resided in Oklahoma for
10 less than three (3) years for which a search is required:

11 a. operator or responsible entity making a request to
12 establish or operate a secure detention center,
13 municipal juvenile facility, community intervention
14 center or secure facility licensed or certified by the
15 Office of Juvenile Affairs,

16 b. employee or applicant of a secure detention center,
17 municipal juvenile facility, community intervention
18 center or secure facility licensed or certified by the
19 Office of Juvenile Affairs, or

20 c. persons allowed unsupervised access to children,
21 including contract employees or volunteers, of a
22 secure detention center, municipal juvenile facility,
23 community intervention center or secure facility

24

1 licensed or certified by the Office of Juvenile
2 Affairs.

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

4 (1) any child-placing agency contracting with a
5 person for foster family home services or in any
6 manner for services for the care and supervision
7 of children shall also, prior to executing a
8 contract, complete:

9 (a) a foster parent eligibility assessment for
10 the foster care provider except as otherwise
11 provided by divisions (2) and (4) of this
12 subparagraph, and

13 (b) a national criminal history records search
14 based upon submission of fingerprints for
15 any adult residing in the foster family home
16 through the Department of Human Services
17 pursuant to the provisions of Section 1-7-
18 106 of Title 10A of the Oklahoma Statutes,
19 except as otherwise provided by divisions
20 (2) and (4) of this subparagraph,

21 (2) the child-placing agency may place a child
22 pending completion of the national criminal
23 history records search if the foster care
24 provider and every adult residing in the foster

1 family home has resided in this state for at
2 least five (5) years immediately preceding such
3 placement,

4 (3) a national criminal history records search based
5 upon submission of fingerprints to the Oklahoma
6 State Bureau of Investigation shall also be
7 completed for any adult who subsequently moves
8 into the foster family home,

9 (4) provided, however, the Director of Human Services
10 or the Director of the Office of Juvenile
11 Affairs, or a designee, may authorize an
12 exception to the fingerprinting requirement for a
13 person residing in the home who has a severe
14 physical condition which precludes such person's
15 being fingerprinted, and

16 (5) any child care facility contracting with any
17 person for foster family home services shall
18 request the Office of Juvenile Affairs to conduct
19 a juvenile justice information system review,
20 pursuant to the provisions of Sections 2-7-905
21 and 2-7-308 of Title 10A of the Oklahoma
22 Statutes, for any child over the age of thirteen
23 (13) years residing in the foster family home,
24 other than a foster child, or who subsequently

1 moves into the foster family home. As a
2 condition of contract, the child care facility
3 shall obtain the consent of the parent or legal
4 guardian of the child for such review.

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

13 2. a. (1) On and after September 1, 1998, except as
14 otherwise provided in divisions (2) and (4) of
15 this subparagraph, prior to contracting with a
16 foster family home for placement of any child who
17 is in the custody of the Department of Human
18 Services or the Office of Juvenile Affairs, each
19 Department shall complete a foster parent
20 eligibility assessment, pursuant to the
21 provisions of the Oklahoma Child Care Facilities
22 Licensing Act, for such foster family applicant.
23 In addition, except as otherwise provided by
24 divisions (2) and (4) of this subparagraph, the

1 Department shall complete a national criminal
2 history records search based upon submission of
3 fingerprints for any adult residing in such
4 foster family home.

5 (2) The Department of Human Services and Office of
6 Juvenile Affairs may place a child pending
7 completion of the national criminal history
8 records search if the foster care provider and
9 every adult residing in the foster family home
10 has resided in this state for at least five (5)
11 years immediately preceding such placement.

12 (3) A national criminal history records search based
13 upon submission of fingerprints conducted by the
14 Oklahoma State Bureau of Investigation shall also
15 be completed for any adult who subsequently moves
16 into the foster family home.

17 (4) The Director of Human Services or the Director of
18 the Office of Juvenile Affairs or their designee
19 may authorize an exception to the fingerprinting
20 requirement for any person residing in the home
21 who has a severe physical condition which
22 precludes such person's being fingerprinted.

23 b. The provisions of this paragraph shall not apply to
24 foster care providers having a contract or contracting

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

7 3. The Department of Human Services or the Office of Juvenile
8 Affairs shall provide for a juvenile justice information system
9 review pursuant to Section 2-7-308 of Title 10A of the Oklahoma
10 Statutes for any child over the age of thirteen (13) years residing
11 in a foster family home, other than the foster child, or who
12 subsequently moves into the foster family home.

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

21 D. Except as otherwise provided by the Oklahoma Children's Code
22 and subsection F of this section, a conviction for a crime shall not
23 be an absolute bar to employment, but shall be considered in
24 relation to specific employment duties and responsibilities.

1 E. 1. Information received pursuant to this section by an
2 owner, administrator, or responsible entity of a child care
3 facility, shall be maintained in a confidential manner pursuant to
4 applicable state and federal laws.

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

11 3. Requirements for confidentiality and recordkeeping with
12 regard to the information shall be the same for the child care
13 facility receiving the information in response to a request as those
14 provided for in paragraph 1 of this subsection for the child care
15 facility releasing such information.

16 4. Information received by any facility certified by the Office
17 of Juvenile Affairs may be released to another facility certified by
18 the Office if an individual is being considered for employment or
19 contract, along with any other relevant information, unless the
20 information is deemed confidential by state or federal law. Any
21 information received by the Office shall be maintained in a
22 confidential manner pursuant to applicable state and federal law.

23 F. 1. It shall be unlawful for individuals who are required to
24 register pursuant to the Sex Offenders Registration Act to work with

1 or provide services to children or to reside in a child care
2 facility and for any employer who offers or provides services to
3 children to knowingly and willfully employ or contract with, or
4 allow continued employment of or contracting with individuals who
5 are required to register pursuant to the Sex Offenders Registration
6 Act. Individuals required to register pursuant to the Sex Offenders
7 Registration Act who violate any provision of Section 401 et seq. of
8 this title shall, upon conviction, be guilty of a felony punishable
9 by incarceration in a correctional facility for a period of not more
10 than five (5) years and a fine of not more than Five Thousand
11 Dollars (\$5,000.00) or both such fine and imprisonment.

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

- 15 a. an emergency order,
- 16 b. license revocation or denial,
- 17 c. injunctive proceedings,
- 18 d. an administrative penalty not to exceed Ten Thousand
19 Dollars (\$10,000.00), and
- 20 e. referral for criminal proceedings.

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

23 SECTION 2. AMENDATORY 10A O.S. 2011, Section 2-7-602, is
24 amended to read as follows:

1 Section 2-7-602. A. The Office of Juvenile Affairs shall
2 establish and maintain such methods of administration, including
3 those necessary to establish and maintain a merit system of
4 personnel administration, and shall promulgate such rules as it
5 deems necessary for the efficient and effective operation of the
6 juvenile institutions and facilities operated by the Office.

7 B. The Executive Director of the Office of Juvenile Affairs
8 shall employ and fix the duties and compensation of a
9 superintendent, and such other personnel as the Executive Director
10 deems necessary, for each of the juvenile institutions and
11 facilities operated by the Office of Juvenile Affairs. The Office
12 shall promulgate, and in its hiring and employment practices, the
13 Office shall adhere to, written minimum qualifications by position
14 for personnel working with or around juveniles in said institutions
15 and facilities. Such minimum qualifications shall be designed to
16 assure that such personnel possess sufficient education, training,
17 experience and background to provide adequate and safe professional
18 care and services to said juveniles; and that the juveniles will not
19 be exposed to abuse, deprivation, criminal conduct, or other
20 unwholesome conditions attributable to employee incompetence or
21 misconduct.

22 C. 1. The Office of Juvenile Affairs may directly request
23 national criminal history records searches as defined by Section
24 150.9 of Title 74 of the Oklahoma Statutes from the Oklahoma State

1 Bureau of Investigation for the purpose of investigating the
2 criminal history of ~~an~~ any employee or applicant of the Office of
3 Juvenile Affairs. An entity licensed by the Office of Juvenile
4 Affairs may directly request national criminal history records
5 searches as defined by Section 150.9 of Title 74 of the Oklahoma
6 Statutes from the Oklahoma State Bureau of Investigation. The
7 Oklahoma State Bureau of Investigation may charge a search fee as
8 provided in Section 150.9 of Title 74 of the Oklahoma Statutes. The
9 fee shall be deposited in the OSBI Revolving Fund.

10 2. The Board of Juvenile Affairs shall promulgate rules for the
11 Office of Juvenile Affairs to obtain national criminal history
12 ~~record searches in accordance with the requirements of Section 404.1~~
13 ~~of Title 10 of the Oklahoma Statutes~~ records for personnel described
14 in subsection B of this section, except that such rules may permit
15 employment of applicants pending receipt of the results of national
16 criminal history record searches.

17 D. The superintendent of a juvenile institution or facility
18 shall be the guardian of the person of each juvenile in the
19 institution or facility for the limited purpose of providing care
20 and protection for any life-threatening situation that may arise.

21 SECTION 3. NEW LAW A new section of law to be codified
22 in the Oklahoma Statutes as Section 2-7-617 of Title 10A, unless
23 there is created a duplication in numbering, reads as follows:

24

1 A. Prior to the issuing by the Office of Juvenile Affairs a
2 certification to any person or entity for a secure detention center,
3 municipal juvenile facility, community intervention center or secure
4 facility, such persons or entities shall have a national criminal
5 history records search conducted pursuant to paragraph 12 of
6 subsection A of Section 404.1 of Title 10 of the Oklahoma Statutes.

7 Such persons or entities shall include any:

- 8 1. Operators and responsible entities;
- 9 2. Individual employee or applicant; or
- 10 3. Employee or individual allowed unsupervised access to
11 children, including contract employees and volunteers.

12 B. The Oklahoma State Bureau of Investigation may charge a
13 search fee as provided in Section 150.9 of Title 74 of the Oklahoma
14 Statutes. The fee shall be deposited in the OSBI Revolving Fund.
15 The fee shall be paid for by the persons or entities identified in
16 subsection A of this section.

17 C. The Office of Juvenile Affairs and the Oklahoma State Bureau
18 of Investigation are authorized to enter into an agreement pursuant
19 to the Interlocal Cooperation Act, Section 1001 et seq. of Title 74
20 of the Oklahoma Statutes, to implement the provisions of this
21 section, including the transfer of funds to offset the cost
22 associated with national criminal history records searches.

23 D. The Board of Juvenile Affairs may promulgate rules to
24 implement the provisions of this act.

