

STATE OF OKLAHOMA

2nd Session of the 56th Legislature (2018)

COMMITTEE SUBSTITUTE
FOR

HOUSE BILL NO. 3400

By: Williams

COMMITTEE SUBSTITUTE

An Act relating to child care; amending 10 O.S. 2011, Sections 405.2, as amended by Section 7, Chapter 308, O.S.L. 2013 and 407, as amended by Section 10, Chapter 308, O.S.L. 2013 (10 O.S. Supp. 2017, Sections 405.2 and 407), which relate to the Oklahoma Child Care Facilities Licensing Act; modifying information to be included in certain online database; prohibiting inclusion of certain licensee address; providing exception for nonpublic database for law enforcement purposes; directing appointment of administrative law judge; requiring hearing for protest of a license revocation or denial within a specified amount of time; specifying who will conduct emergency order hearing; decreasing amount of time for emergency order hearing; and providing an effective date.

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

SECTION 1. AMENDATORY 10 O.S. 2011, Section 405.2, as amended by Section 7, Chapter 308, O.S.L. 2013 (10 O.S. Supp. 2017, Section 405.2), is amended to read as follows:

Section 405.2 A. ~~The~~ Except as provided in subsection C of this section, the Department of Human Services shall promulgate

1 rules to establish and maintain an online database accessible to the
2 public that contains information including, but not limited to:

3 1. The name, ~~address~~ city, and phone number of all child care
4 centers licensed by the Department of Human Services, and the name,
5 ~~address~~ city, and phone number of all child care homes licensed by
6 the Department; and

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

9 B. Child care licensing records and inspection reports shall be
10 maintained by the facility and be posted or made available to
11 individuals pursuant to the licensing requirements promulgated by
12 the Department.

13 C. The online database maintained by the Department and
14 accessible to the public shall not include the address of any family
15 child care home licensed by the Department. Nothing in this
16 subsection shall prohibit the Department from providing a separate,
17 nonpublic online database that is only accessible for law
18 enforcement purposes.

19 SECTION 2. AMENDATORY 10 O.S. 2011, Section 407, as
20 amended by Section 10, Chapter 308, O.S.L. 2013 (10 O.S. Supp. 2017,
21 Section 407), is amended to read as follows:

22 Section 407. A. The Department of Human Services may revoke or
23 deny issuance of the license of any child care facility found to be
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1 in violation of any provision of this act or the rules of the
2 Department, as provided in Section 404 of this title.

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

7 2. At the time the facility is given notice in writing of the
8 revocation or denial of a license, the Department shall also advise
9 parents of children attending the facility and the child care
10 resource and referral organization within one (1) business day of
11 such action by verbal, electronic, or written notification and the
12 posting of an announcement in the facility.

13 3. If the revocation or denial is protested within thirty (30)
14 days of receipt of notice, by writing addressed to the Department,
15 the Department, or its authorized agency, shall appoint an
16 administrative law judge to conduct a hearing within thirty (30)
17 days upon receipt of the protest at which an opportunity shall be
18 given to the licensee or applicant to present testimony and confront
19 witnesses.

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

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

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

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

9 3. Whenever the Department finds, after an investigation, that
10 an emergency exists requiring immediate action to protect the
11 health, safety, or welfare of any child cared for by a facility
12 licensed, authorized, or providing unlicensed care except as
13 exempted by the provisions of the Oklahoma Child Care Facilities
14 Licensing Act, the Department may without notice or hearing issue an
15 emergency order stating the existence of such an emergency and
16 requiring that such action be taken as it deems necessary to meet
17 the emergency including, when necessary, removing children from the
18 facility and prohibiting the facility from providing services to
19 children pending a hearing on the matter.

20 a. An emergency order shall be effective immediately.

21 Any person to whom an emergency order is directed
22 shall comply with the emergency order immediately but,
23 upon written request to the Department on or before
24 the tenth day after receipt of the emergency order,

1 shall be afforded a hearing ~~on or before the tenth day~~
2 before an administrative law judge within seventy-two
3 (72) hours after receipt of the request by the
4 Department.

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

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

13 D. The Department shall establish a process to review the
14 initial determination of the closure of a facility due to an
15 emergency pursuant to the licensing requirements promulgated by the
16 Department.

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

21 F. In addition to any other remedy authorized by this act, ~~a~~
22 ~~CLEET-certified~~ an officer certified by the Council on Law
23 Enforcement Education and Training (CLEET) may issue a citation for
24 a violation of any provision of this act or rules of the Department

1 as provided in Section 404 of this title. The fine shall not be
2 less than One Hundred Dollars (\$100.00) nor more than Five Hundred
3 Dollars (\$500.00) for every day the facility maintains and receives
4 children after:

- 5 1. An emergency order has been issued; or
- 6 2. An application for a license has been denied or the license
7 has been revoked.

8 G. One-half (1/2) of the funds collected pursuant to subsection
9 F of this section shall be deposited in the Quality of Care
10 Development Fund established in Section ~~40~~ 410.1 of this ~~act~~ title
11 and one-half (1/2) shall be retained by the law enforcement agency
12 represented by the CLEET-certified officer.

13 SECTION 3. This act shall become effective November 1, 2018.

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