

1 ENGROSSED SENATE
2 BILL NO. 717

By: Griffin of the Senate

3 and

4 Osborn (Leslie) of the
5 House

6 An Act relating to registries maintained by the
7 Department of Human Services; amending 10 O.S. 2011,
8 Section 404.1, as last amended by Section 1, Chapter
9 307, O.S.L. 2016 (10 O.S. Supp. 2016, Section 404.1),
10 which relates to criminal history records searches;
11 requiring search of certain registries prior to
12 issuance of certain licenses; amending 10 O.S. 2011,
13 Section 405.3, as last amended by Section 1, Chapter
14 158, O.S.L. 2015 (10 O.S. Supp. 2016, Section 405.3),
15 which relates to the Online Child Care Restricted
16 Registry; broadening scope of certain registry to
17 include certain facilities; amending name of certain
18 registry; clarifying language; and providing an
19 effective date.

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

21 SECTION 1. AMENDATORY 10 O.S. 2011, Section 404.1, as
22 last amended by Section 1, Chapter 307, O.S.L. 2016 (10 O.S. Supp.
23 2016, Section 404.1), is amended to read as follows:

24 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,
- d. a criminal history records search conducted by an authorized source, when the individual has lived outside the United States within the last three (3) years, and
- e. a search of the Department of Corrections' files maintained pursuant to the Sex Offenders Registration Act and conducted by the Department of Human Services,
- f. a search of the nontechnical services worker abuse registry maintained by the State Department of Health pursuant to Section 1-1950.7 of Title 63 of the Oklahoma Statutes, and
- g. a search of the community services worker registry maintained by the Department of Human Services pursuant to Section 1025.3 of Title 56 of the Oklahoma Statutes;

2. Prior to the employment of an individual:

- a. an Oklahoma State Courts Network search, conducted by the Department, shall be requested and received by the facility; provided however, if twenty-four (24) hours has passed from the time the request to the Department

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

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

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

- b. a ~~Child-Care~~ Restricted Registry search shall be conducted by the facility with notification of the search submitted to the Department,
- c. national criminal history records search results pursuant to paragraph 10 of this subsection shall be received by the facility,
- d. a criminal history records search conducted by an authorized source, when the individual has lived outside the United States within the last three (3) years shall be submitted to the Department, and
- e. a search of the Department of Corrections' files maintained pursuant to the Sex Offenders Registration Act shall be conducted by the Department and received by the facility;

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

- a. an Oklahoma State Courts Network search conducted by the Department and the facility shall be in receipt of the search results,
- b. a ~~Child-Care~~ Restricted Registry search conducted by the facility with notification of the search submitted to the Department,

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 Courts Network search conducted by
15 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,

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

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;

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

6 12. The Office of Juvenile Affairs shall require national
7 criminal history records searches, as defined by Section 150.9 of
8 Title 74 of the Oklahoma Statutes, which shall be provided by the
9 Oklahoma State Bureau of Investigation for the purpose of obtaining
10 the national criminal history records search, including Rap Back
11 notification of and through direct request by the Office of Juvenile
12 Affairs on behalf of any:

- 13 a. operator or responsible entity making a request to
14 establish or operate a secure detention center,
15 municipal juvenile facility, community intervention
16 center or secure facility licensed or certified by the
17 Office of Juvenile Affairs,
- 18 b. employee or applicant of a secure detention center,
19 municipal juvenile facility, community intervention
20 center or secure facility licensed or certified by the
21 Office of Juvenile Affairs, or
- 22 c. persons allowed unsupervised access to children,
23 including contract employees or volunteers, of a
24 secure detention center, municipal juvenile facility,

1 community intervention center or secure facility
2 licensed or certified by the Office of Juvenile
3 Affairs.

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

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

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

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

22 (2) the child-placing agency may place a child
23 pending completion of the national criminal
24 history records search if the foster care

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

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

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

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

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

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

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

1 divisions (2) and (4) of this subparagraph, the
2 Department shall complete a national criminal
3 history records search based upon submission of
4 fingerprints for any adult residing in such
5 foster family home.

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

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

18 (4) The Director of Human Services or the Director of
19 the Office of Juvenile Affairs or their designee
20 may authorize an exception to the fingerprinting
21 requirement for any person residing in the home
22 who has a severe physical condition which
23 precludes such person's being fingerprinted.
24

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

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

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

23 D. Except as otherwise provided by the Oklahoma Children's Code
24 and subsection F of this section, a conviction for a crime shall not

1 be an absolute bar to employment, but shall be considered in
2 relation to specific employment duties and responsibilities.

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

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

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

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

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

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

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

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

1 SECTION 2. AMENDATORY 10 O.S. 2011, Section 405.3, as
2 last amended by Section 1, Chapter 158, O.S.L. 2015 (10 O.S. Supp.
3 2016, Section 405.3), is amended to read as follows:

4 Section 405.3. A. ~~On or before July 1, 2010, the~~ The
5 Department of Human Services shall promulgate rules to establish and
6 maintain the ~~Child Care~~ Restricted Registry, accessible to the
7 public through an online database, to address:

8 1. A procedure for recording individuals on the restricted
9 registry resulting from:

10 a. a substantiated finding of abuse or neglect, as
11 defined in Section 1-1-105 of Title 10A of the
12 Oklahoma Statutes, by an individual when the abuse or
13 neglect occurred to ~~children~~ a child while in the care
14 of a ~~child care~~ facility licensed ~~by~~, certified,
15 operated or contracted by or with the Department or ~~by~~
16 ~~an adult in a family child care home when the adult's~~
17 ~~presence is incidental to the operation of the family~~
18 ~~child care home~~ the Office of Juvenile Affairs. The
19 provisions of this subparagraph shall apply to:

20 (1) the Central Oklahoma Juvenile Center, the
21 Oklahoma Juvenile Center for Girls and the
22 Southwest Oklahoma Juvenile Center upon the
23 effective date of this act, and
24

1 (2) facilities licensed by, certified by or
2 contracting with the Office of Juvenile Affairs
3 after March 1, 2018,

4 b. a revocation or denial of a child care facility
5 license, and

6 c. a specified criminal history of an individual, as
7 defined by rules promulgated by the Department;

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

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

12 4. A procedure to prohibit licensure, ownership, employment,
13 unsupervised access to children or residence in a ~~child care~~
14 facility ~~licensed by the Department of individuals recorded on the~~
15 ~~restricted registry~~ or program licensed, certified, operated or
16 contracted with by the Department or the Office of Juvenile Affairs.

17 B. The ~~Child Care~~ Restricted Registry shall include, but not be
18 limited to:

19 1. The full name of the individual;

20 2. Information necessary to identify the individual; and

21 3. The date the individual was recorded on the restricted
22 registry.

1 C. Nothing in this section shall be construed as to permit the
2 placement of an operator of a child care facility on the Child Care
3 Restricted Registry unless the operator:

4 1. Is the subject of a substantiated finding of child abuse or
5 neglect;

6 2. Has been subject to a revocation or denial of a child care
7 facility license; or

8 3. Has a specified criminal history, as defined by rules
9 promulgated by the Department.

10 SECTION 3. This act shall become effective November 1, 2017.

11 Passed the Senate the 13th day of March, 2017.

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13 _____
14 Presiding Officer of the Senate

15 Passed the House of Representatives the ____ day of _____,
16 2017.

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18 _____
19 Presiding Officer of the House
20 of Representatives
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