

1 ENGROSSED HOUSE
2 BILL NO. 3400

By: Williams of the House

3 and

4 Smalley of the Senate

5
6 An Act relating to child care; amending 10 O.S. 2011,
7 Sections 405.2, as amended by Section 7, Chapter 308,
8 O.S.L. 2013 and 407, as amended by Section 10,
9 Chapter 308, O.S.L. 2013 (10 O.S. Supp. 2017,
10 Sections 405.2 and 407), which relate to the Oklahoma
11 Child Care Facilities Licensing Act; modifying
12 information to be included in certain online
13 database; prohibiting inclusion of certain licensee
14 address; providing exception for nonpublic database
15 for law enforcement purposes; directing appointment
16 of administrative law judge; requiring hearing for
17 protest of a license revocation or denial within a
18 specified amount of time; specifying who will conduct
19 emergency order hearing; decreasing amount of time
20 for emergency order hearing; and providing an
21 effective date.

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

23 SECTION 1. AMENDATORY 10 O.S. 2011, Section 405.2, as
24 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
rules to establish and maintain an online database accessible to the
public that contains information including, but not limited to:

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

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

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

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

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

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

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

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

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

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

22 5. If notice of the proposed revocation or denial of a license
23 is not protested, the license shall be revoked or denied.
24

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

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

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

18 a. An emergency order shall be effective immediately.

19 Any person to whom an emergency order is directed
20 shall comply with the emergency order immediately but,
21 upon written request to the Department on or before
22 the tenth day after receipt of the emergency order,
23 shall be afforded a hearing ~~on or before the tenth day~~
24 before an administrative law judge within seventy-two

1 (72) hours after receipt of the request by the
2 Department.

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

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

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

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

19 F. In addition to any other remedy authorized by this act, a
20 ~~CLEET-certified~~ an officer certified by the Council on Law
21 Enforcement Education and Training (CLEET) may issue a citation for
22 a violation of any provision of this act or rules of the Department
23 as provided in Section 404 of this title. The fine shall not be
24 less than One Hundred Dollars (\$100.00) nor more than Five Hundred

Dollars (\$500.00) for every day the facility maintains and receives children after:

1. An emergency order has been issued; or

2. An application for a license has been denied or the license has been revoked.

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

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

Passed the House of Representatives the 15th day of March, 2018.

Presiding Officer of the House
of Representatives

Passed the Senate the ____ day of _____, 2018.

Presiding Officer of the Senate