

# An Act

ENROLLED HOUSE  
BILL NO. 2524

By: Cleveland of the House

and

Standridge of the Senate

An Act relating to child care; amending 10 O.S. 2011, Sections 404, as last amended by Section 1, Chapter 377, O.S.L. 2016 and 406, as amended by Section 9, Chapter 308, O.S.L. 2013 (10 O.S. Supp. 2017, Sections 404 and 406), which relate to the Oklahoma Child Care Facilities Licensing Act; updating outline; requiring the Department of Human Services to promulgate rules for an anonymous system for reporting and investigating complaints or grievances about retaliation against a facility or employee; and providing an effective date.

SUBJECT: Oklahoma Child Care Facilities Licensing Act

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

SECTION 1. AMENDATORY 10 O.S. 2011, Section 404, as last amended by Section 1, Chapter 377, O.S.L. 2016 (10 O.S. Supp. 2017, Section 404), is amended to read as follows:

Section 404. A. 1. The Department of Human Services, in consultation with the Oklahoma Commission on Children and Youth, shall appoint advisory committees of representatives of child care facilities and others to recommend minimum requirements and desirable standards for promulgation by the Department.

2. Committee members shall be appointed for a three-year term, with a two-consecutive-term limit. The committee shall include four committees with representation for all categories of facilities licensed by the Department and shall be comprised as follows:

- a. the Residential Children's Services subcommittee shall include at a minimum:
  - (1) a representative of a statewide organization representing children in care arrangements outside their own home,
  - (2) a representative of a statewide organization providing residential services to youth in state custody,
  - (3) a recipient or former recipient of youth services for children in state custody,
  - (4) a representative of a statewide organization promoting adoption services,
  - (5) a parent or guardian providing foster care to a child or children in state custody,
  - (6) a representative from a nonpublic, long-term residential care facility for children in state custody,
  - (7) a representative from an organization promoting the interests of Native American children in state custody,
  - (8) a practicing pediatrician,
  - (9) a practicing behavioral health services provider,
  - (10) a representative from an agency providing child-placing services, and
  - (11) other appropriate representatives at the discretion of the Department of Human Services and Commission on Children and Youth,
- b. the Child Care Centers subcommittee shall include at a minimum:

- (1) a representative of a statewide organization advocating for children in care arrangements outside their own home,
- (2) a representative of a statewide organization conducting programs for school-age children,
- (3) a parent or guardian with a child attending a licensed child care facility,
- (4) a representative of a licensed child care facility in a rural area,
- (5) a representative of a statewide organization advocating for licensed child care facilities owned or operated by Native Americans,
- (6) a representative of a licensed child care facility in an urban/suburban area,
- (7) a representative of a statewide organization advocating for programs provided under the Head Start program,
- (8) a representative with knowledge of child care programs offered by career technology center in this state,
- (9) a representative of a statewide organization advocating for early childhood education programs,
- (10) a representative of a statewide organization providing resources and referrals to child care facilities,
- (11) a practicing pediatrician, and
- (12) other appropriate representatives at the discretion of the Department of Human Services and Commission on Children and Youth,

c. the Child Care Homes subcommittee shall include at a minimum:

- (1) a representative of a statewide organization advocating for children in care arrangements outside their own home,
- (2) a parent or guardian with a child receiving care at a licensed child care home,
- ~~(4)~~ (3) a representative of a licensed child care home in a rural area,
- ~~(5)~~ (4) a representative of a statewide organization advocating for licensed child care facilities owned or operated by Native Americans,
- ~~(6)~~ (5) a representative of a licensed child care home in an urban/suburban area,
- ~~(7)~~ (6) a representative of a statewide organization advocating for early childhood education programs,
- ~~(8)~~ (7) a representative of a statewide organization providing resources and referrals to child care facilities,
- ~~(9)~~ (8) a practicing pediatrician, and
- ~~(10)~~ (9) other appropriate representatives at the discretion of the Department of Human Services and Commission on Children and Youth, and

- d. ~~The~~ the Quality Rating and Improvement System subcommittee shall include representatives of child care centers and child care homes currently licensed by the State and other members as determined by the Department of Human Services and the Commission on Children and Youth.

3. The advisory committee shall create a Child Care Facility Peer Review Board whose purpose shall be to participate in the Department's grievance process. A majority of the Board shall be representatives of child care facilities. The Department shall promulgate rules specifying the duties of the Child Care Facility Peer Review Board in the grievance process.

B. Child care facilities shall not allow children to be left alone in the care of any person under eighteen (18) years of age. Child care centers and family child care homes shall not:

1. Use soft or loose bedding, including, but not limited to, blankets, in sleeping equipment or in sleeping areas used only for infants;

2. Allow toys or educational devices in sleeping equipment or in a sleeping area used only for infants; or

3. Place a child in sleeping equipment or in a sleeping area which has not been previously approved for use as such by the Department.

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

D. Such rules shall not be promulgated until after consultation with the State Department of Health, the State Department of Education, the Oklahoma State Bureau of Investigation, the State Fire Marshal, the Commission on Children and Youth, the Oklahoma Department of Mental Health and Substance Abuse Services and any other agency deemed necessary by the Department. Not less than sixty (60) days' notice, by regular mail, shall be given to all current licensees before any changes are made in such rules.

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

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

SECTION 2. AMENDATORY 10 O.S. 2011, Section 406, as amended by Section 9, Chapter 308, O.S.L. 2013 (10 O.S. Supp. 2017, Section 406), is amended to read as follows:

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

B. 1. The State Department of Health may visit any licensee or applicant at the request of the Department to advise on matters affecting the health of children and to inspect the sanitation of the buildings used for their care.

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

C. 1. Upon receipt of a complaint against any child care facility alleging a violation of the provisions of the Oklahoma Child Care Facilities Licensing Act, or any licensing standard promulgated by the Department, the Department shall conduct a full investigation. If upon investigation, it is determined that there are reasonable grounds to believe that a facility is in violation of the Oklahoma Child Care Facilities Licensing Act or of any standard or rule promulgated pursuant thereto, the Department shall:

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

2. If the Department determines there has been a violation and the violation has a direct impact on the health, safety or well-being of one or more of the children cared for by the facility, the Department shall notify the facility and require correction of the violation.

3. The Department shall notify the facility that failure to correct the confirmed violation can result in the revocation of the license, the denial of an application for a license, the issuance of

an emergency order or the filing of an injunction pursuant to the provisions of Section 409 of this title.

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

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

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

F. The Department shall promulgate rules to establish and maintain a grievance process that shall include an anonymous complaint system for reporting and investigating complaints or grievances about employees of the Department who retaliate against a child care facility or facility employee.

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

Passed the House of Representatives the 12th day of March, 2018.

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Presiding Officer of the House  
of Representatives

Passed the Senate the 17th day of April, 2018.

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Presiding Officer of the Senate

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this \_\_\_\_\_  
day of \_\_\_\_\_, 20\_\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ M.  
By: \_\_\_\_\_

Approved by the Governor of the State of Oklahoma this \_\_\_\_\_  
day of \_\_\_\_\_, 20\_\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

\_\_\_\_\_  
Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this \_\_\_\_\_  
day of \_\_\_\_\_, 20\_\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ M.  
By: \_\_\_\_\_