

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 2nd Session of the 56th Legislature (2018)

4 COMMITTEE SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 3400

By: Williams of the House

and

Smalley of the Senate

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10 COMMITTEE SUBSTITUTE

11 An Act relating to child care; amending 10 O.S. 2011,
12 Sections 405.2, as amended by Section 7, Chapter 308,
13 O.S.L. 2013 and 407, as amended by Section 10,
14 Chapter 308, O.S.L. 2013 (10 O.S. Supp. 2017,
15 Sections 405.2 and 407), which relate to the Oklahoma
16 Child Care Facilities Licensing Act; modifying
17 information to be included in certain online
18 database; prohibiting inclusion of certain licensee
19 address; providing exception for nonpublic database
20 for law enforcement purposes; directing appointment
21 of administrative law judge; requiring hearing for
22 protest of a license revocation or denial within a
23 specified amount of time; specifying who will conduct
24 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:

1 Section 405.2 A. ~~The~~ Except as provided in subsection C of
2 this section, the Department of Human Services shall promulgate
3 rules to establish and maintain an online database accessible to the
4 public that contains information including, but not limited to:

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

9 2. A summary of substantiated complaint records and inspection
10 reports generated by the Department.

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

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

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

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

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

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

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

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

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

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

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

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

22 a. An emergency order shall be effective immediately.

23 Any person to whom an emergency order is directed

24 shall comply with the emergency order immediately but,

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

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

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

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

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

23 F. In addition to any other remedy authorized by this act, a
24 ~~CLEET-certified~~ an officer certified by the Council on Law

1 Enforcement Education and Training (CLEET) may issue a citation for
2 a violation of any provision of this act or rules of the Department
3 as provided in Section 404 of this title. The fine shall not be
4 less than One Hundred Dollars (\$100.00) nor more than Five Hundred
5 Dollars (\$500.00) for every day the facility maintains and receives
6 children after:

7 1. An emergency order has been issued; or

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

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

15 SECTION 3. This act shall become effective November 1, 2018.
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17 COMMITTEE REPORT BY: COMMITTEE ON CHILDREN, YOUTH AND FAMILY
18 SERVICES, dated 02/26/2018 - DO PASS, As Amended and Coauthored.
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