

1 **SENATE FLOOR VERSION**

2 March 26, 2018

3 ENGROSSED HOUSE
4 BILL NO. 2524

By: Cleveland of the House

and

Standridge of the Senate

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

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

5 a. the Residential Children's Services subcommittee shall
6 include at a minimum:

7 (1) a representative of a statewide organization
8 representing children in care arrangements
9 outside their own home,

10 (2) a representative of a statewide organization
11 providing residential services to youth in state
12 custody,

13 (3) a recipient or former recipient of youth services
14 for children in state custody,

15 (4) a representative of a statewide organization
16 promoting adoption services,

17 (5) a parent or guardian providing foster care to a
18 child or children in state custody,

19 (6) a representative from a nonpublic, long-term
20 residential care facility for children in state
21 custody,

22 (7) a representative from an organization promoting
23 the interests of Native American children in
24 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,

- 1 ~~(4)~~ (3) a representative of a licensed child care home in
2 a rural area,
- 3 ~~(5)~~ (4) a representative of a statewide organization
4 advocating for licensed child care facilities
5 owned or operated by Native Americans,
- 6 ~~(6)~~ (5) a representative of a licensed child care home in
7 an urban/suburban area,
- 8 ~~(7)~~ (6) a representative of a statewide organization
9 advocating for early childhood education
10 programs,
- 11 ~~(8)~~ (7) a representative of a statewide organization
12 providing resources and referrals to child care
13 facilities,
- 14 ~~(9)~~ (8) a practicing pediatrician, and
- 15 ~~(10)~~ (9) other appropriate representatives at the
16 discretion of the Department of Human Services
17 and Commission on Children and Youth, and
- 18 d. ~~The~~ the Quality Rating and Improvement System
19 subcommittee shall include representatives of child
20 care centers and child care homes currently licensed
21 by the State and other members as determined by the
22 Department of Human Services and the Commission on
23 Children and Youth.
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1 3. The advisory committee shall create a Child Care Facility
2 Peer Review Board whose purpose shall be to participate in the
3 Department's grievance process. A majority of the Board shall be
4 representatives of child care facilities. The Department shall
5 promulgate rules specifying the duties of the Child Care Facility
6 Peer Review Board in the grievance process.

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

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

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

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

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

22 D. Such rules shall not be promulgated until after consultation
23 with the State Department of Health, the State Department of
24 Education, the Oklahoma State Bureau of Investigation, the State

1 Fire Marshal, the Commission on Children and Youth, the Oklahoma
2 Department of Mental Health and Substance Abuse Services and any
3 other agency deemed necessary by the Department. Not less than
4 sixty (60) days' notice, by regular mail, shall be given to all
5 current licensees before any changes are made in such rules.

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

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

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

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

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

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

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

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

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

6 3. The Department shall notify the facility that failure to
7 correct the confirmed violation can result in the revocation of the
8 license, the denial of an application for a license, the issuance of
9 an emergency order or the filing of an injunction pursuant to the
10 provisions of Section 409 of this title.

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

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

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

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

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

20 COMMITTEE REPORT BY: COMMITTEE ON HEALTH AND HUMAN SERVICES
21 March 26, 2018 - DO PASS
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