

STATE OF OKLAHOMA

2nd Session of the 56th Legislature (2018)

HOUSE BILL 3400

By: Williams

AS INTRODUCED

An Act relating to child care; amending 10 O.S. 2011, Section 407, as amended by Section 10, Chapter 308, O.S.L. 2013 (10 O.S. Supp. 2017, Section 407), which relates to the Oklahoma Child Care Facilities Licensing Act; requiring hearing for protest of a license revocation or denial within a specified amount of time; modifying time for notice of 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 407, as amended by Section 10, Chapter 308, O.S.L. 2013 (10 O.S. Supp. 2017, Section 407), is amended to read as follows:

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

B. 1. No license shall be revoked or issuance denied unless and until such time as the licensee or applicant shall have been

1 given at least thirty (30) days' notice in writing of the grounds of
2 the proposed revocation or denial.

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

9 3. If the revocation or denial is protested within thirty (30)
10 days of receipt of notice, by writing addressed to the Department,
11 the Department, or its authorized agency, shall conduct a hearing
12 within seventy-two (72) hours upon receipt of the protest at which
13 an opportunity shall be given to the licensee or applicant to
14 present testimony and confront witnesses.

15 4. Notice of the hearing shall be given to the licensee or
16 applicant by personal service or by delivery to the proper address
17 by certified mail, return receipt requested, at least ~~two (2) weeks~~
18 twenty-four (24) hours prior to the date thereof.

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

21 C. 1. Nothing in this section or Section 406 of this title
22 shall be construed as preventing the Department from taking
23 emergency action as provided by this subsection.
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1 2. For the purposes of this subsection, "emergency" means a
2 situation that poses a direct and serious threat to the health,
3 safety, or welfare of any child cared for by the facility.

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

15 a. An emergency order shall be effective immediately.

16 Any person to whom an emergency order is directed
17 shall comply with the emergency order immediately but,
18 upon written request to the Department on or before
19 the tenth day after receipt of the emergency order,
20 shall be afforded a hearing ~~on or before the tenth day~~
21 within seventy-two (72) hours after receipt of the
22 request by the Department.

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

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

7 D. The Department shall establish a process to review the
8 initial determination of the closure of a facility due to an
9 emergency pursuant to the licensing requirements promulgated by the
10 Department.

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

15 F. In addition to any other remedy authorized by this act, a
16 ~~CLEET-certified~~ an officer certified by the Council on Law
17 Enforcement Education and Training (CLEET) may issue a citation for
18 a violation of any provision of this act or rules of the Department
19 as provided in Section 404 of this title. The fine shall not be
20 less than One Hundred Dollars (\$100.00) nor more than Five Hundred
21 Dollars (\$500.00) for every day the facility maintains and receives
22 children after:

23 1. An emergency order has been issued; or
24

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

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

8 SECTION 2. This act shall become effective November 1, 2018.

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