

1                   **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2                               STATE OF OKLAHOMA

3                               1st Session of the 57th Legislature (2019)

4 COMMITTEE SUBSTITUTE  
5 FOR ENGROSSED  
6 SENATE BILL NO. 831

By: Stanley of the Senate

and

Talley of the House

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11                               COMMITTEE SUBSTITUTE

12           An Act relating to child care; amending 10 O.S. 2011,  
13           Section 407, as amended by Section 10, Chapter 308,  
14           O.S.L. 2013 (10 O.S. Supp. 2018, Section 407), which  
15           relates to revocation or denial of issuance of  
16           license; directing appointment of administrative law  
17           judge; requiring hearing for protest of a license  
18           revocation or denial within a specified amount of  
19           time; specifying who will conduct emergency order  
20           hearing; decreasing amount of time for emergency  
21           order hearing; updating statutory references; and  
22           providing an effective date.

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

24           SECTION 1.           AMENDATORY           10 O.S. 2011, Section 407, as  
amended by Section 10, Chapter 308, O.S.L. 2013 (10 O.S. Supp. 2018,  
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~~ the Oklahoma Child Care  
4 Facilities Licensing Act or the rules of the Department, as provided  
5 in Section 404 of this title.

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

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

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

23       4. Notice of the hearing shall be given to the licensee or  
24 applicant by personal service or by delivery to the proper address

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 three (3)  
5           business days 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~~ the  
24          Oklahoma Child Care Facilities Licensing Act, ~~a CLEET-certified an~~

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

8 1. An emergency order has been issued; or

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

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

16 SECTION 2. This act shall become effective November 1, 2019.  
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18 COMMITTEE REPORT BY: COMMITTEE ON CHILDREN, YOUTH AND FAMILY  
19 SERVICES, dated 03/28/2019 - DO PASS, As Amended.  
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