

STATE OF OKLAHOMA

1st Session of the 57th Legislature (2019)

SENATE BILL NO. 831

By: Smalley

AS INTRODUCED

An Act relating to the Oklahoma Child Care Facilities Licensing Act; amending 10 O.S. 2011, Section 405.2, as amended by Section 7, Chapter 308, O.S.L. 2013 (10 O.S. Supp. 2018, Section 405.2), which relates to public online database; modifying information to be included in certain online database; prohibiting inclusion of certain licensee address; providing exception for nonpublic database for law enforcement purposes; amending 10 O.S. 2011, Section 407, as amended by Section 10, Chapter 308, O.S.L. 2013 (10 O.S. Supp. 2018, Section 407), which relates to revocation or denial of issuance of license; directing appointment of administrative law judge; requiring hearing for protest of a license revocation or denial within a specified amount of time; specifying who will conduct emergency order hearing; decreasing amount of time for emergency order hearing; updating statutory references; 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. 2018, Section 405.2), is amended to read as follows:

Section 405.2. A. ~~The~~ Except as provided in subsection C of this section, the Department of Human Services shall promulgate

1 rules to establish and maintain an online database accessible to the  
2 public that contains information including, but not limited to:

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

7 2. A summary of substantiated complaint records and inspection  
8 reports generated by the Department.

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

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

19 SECTION 2. AMENDATORY 10 O.S. 2011, Section 407, as  
20 amended by Section 10, Chapter 308, O.S.L. 2013 (10 O.S. Supp. 2018,  
21 Section 407), is amended to read as follows:

22 Section 407. A. The Department of Human Services may revoke or  
23 deny issuance of the license of any child care facility found to be  
24 in violation of any provision of ~~this act~~ the Oklahoma Child Care

1 Facilities Licensing Act or the rules of the Department, as provided  
2 in Section 404 of this title.

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

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

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

20 4. Notice of the hearing shall be given to the licensee or  
21 applicant by personal service or by delivery to the proper address  
22 by certified mail, return receipt requested, at least two (2) weeks  
23 prior to the date thereof.  
24

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

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

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

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

20       a. An emergency order shall be effective immediately.

21       Any person to whom an emergency order is directed  
22 shall comply with the emergency order immediately but,  
23 upon written request to the Department on or before  
24 the tenth day after receipt of the emergency order,

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

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

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

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

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

21 F. In addition to any other remedy authorized by ~~this act~~ the  
22 Oklahoma Child Care Facilities Licensing Act, ~~a CLEET-certified~~ an  
23 officer certified by the Council on Law Enforcement Education and  
24 Training (CLEET) may issue a citation for a violation of any

1 provision of ~~this act~~ the Oklahoma Child Care Facilities Licensing  
2 Act or rules of the Department as provided in Section 404 of this  
3 title. The fine shall not be less than One Hundred Dollars  
4 (\$100.00) nor more than Five Hundred Dollars (\$500.00) for every day  
5 the facility maintains and receives children after:

- 6 1. An emergency order has been issued; or
- 7 2. An application for a license has been denied or the license  
8 has been revoked.

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

14 SECTION 3. This act shall become effective November 1, 2019.

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