

1 STATE OF OKLAHOMA

2 1st Session of the 58th Legislature (2021)

3 HOUSE BILL 1797

By: Miller

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5
6 AS INTRODUCED

7 An Act relating to child care facilities; amending 10
8 O.S. 2011, Section 406, as last amended by Section 1,
9 Chapter 368, O.S.L. 2019 (10 O.S. Supp. 2020, Section
10 406), which relates to investigations of child care
11 facilities; requiring notification when there is a
12 substantiated finding of heinous and shocking abuse;
13 prescribing method and timing for notification;
14 prohibiting suspected perpetrator from certain
15 employment pending a final determination; and
16 providing an effective date.

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

18 SECTION 1. AMENDATORY 10 O.S. 2011, Section 406, as last
19 amended by Section 1, Chapter 368, O.S.L. 2019 (10 O.S. Supp. 2020,
20 Section 406), is amended to read as follows:

21 Section 406. A. 1. Except as provided in paragraph 2 of this
22 subsection, the Department of Human Services shall have authority at
23 any reasonable time to investigate and examine the conditions of any
24 child care facility in which a licensee or applicant hereunder
receives and maintains children, and shall have authority at any
time to require the facility to provide information pertaining to
children in its care.

1 2. When the Department of Human Services is reviewing the star
2 rating of a child care program with a capacity of fifty or more, the
3 comprehensive visit to inspect and examine the program shall be
4 scheduled with the administration of the program at least one (1)
5 week in advance of the visit, if requested by the child care
6 facility.

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

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

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

23 a. document the complaint,
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- 1 b. provide the complaint allegations in writing to the
2 facility involved and, upon written request by the
3 child care facility, provide a summary of the facts
4 used to evaluate the completed complaint, and
5 c. document the facility's plan for correcting any
6 substantiated violations.

7 2. If the Department determines there has been a violation and
8 the violation has a direct impact on the health, safety or well-
9 being of one or more of the children cared for by the facility, the
10 Department shall notify the facility and require correction of the
11 violation.

12 3. The Department shall notify the facility that failure to
13 correct the confirmed violation can result in the revocation of the
14 license, the denial of an application for a license, the issuance of
15 an emergency order or the filing of an injunction pursuant to the
16 provisions of Section 409 of this title.

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

1 5. If the Department determines there has been a substantiated
2 finding of heinous and shocking abuse by a person responsible for
3 the health, safety and welfare of a child, as defined in Section 1-
4 1-105 of Title 10A of the Oklahoma Statutes, the Department shall
5 notify the child care facility owner or operator and the child care
6 resource and referral organization in writing immediately or not
7 later than one (1) business day after the substantiated finding.
8 The facility owner or operator shall notify parents or legal
9 guardians of children attending the facility by certified mail
10 within one (1) business day of notice of the substantiated finding.
11 The Department shall develop a process by which the suspected
12 perpetrator of substantiated heinous and shocking abuse is unable to
13 be employed in a child care facility pending the final determination
14 of placement on the Child Care Restricted Registry.

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

22 E. Information obtained by the Department or Oklahoma Child
23 Care Services concerning a report of a violation of a licensing
24 requirement, or from any licensee regarding children or their

1 parents or other relatives shall be deemed confidential and
2 privileged communications, shall be properly safeguarded, and shall
3 not be accessible to anyone except as herein provided, unless upon
4 order of a court of competent jurisdiction. Provided, however, this
5 provision shall not prohibit the Department from providing a summary
6 of allegations and findings of an investigation involving a child
7 care facility that does not disclose identities but that permits
8 parents to evaluate the facility.

9 F. The Department shall promulgate rules to establish and
10 maintain a grievance process that shall include an anonymous
11 complaint system for reporting and investigating complaints or
12 grievances about employees of the Department who retaliate against a
13 child care facility or facility employee.

14 SECTION 2. This act shall become effective November 1, 2021.

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