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February 9, 2023

By: Pugh

An Act relating to child care; amending 10 O.S. 2021, Section 404, which relates to minimum requirements and desirable standards; eliminating certain restriction on notice requirement; updating statutory language; amending 10 O.S. 2021, Section 404.1, which relates to child care facility license; eliminating certain restriction on rule promulgation; updating statutory language; and providing an effective date.

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

SECTION 1. AMENDATORY 10 O.S. 2021, Section 404, is amended to read as follows:

Section 404. A. 1. The Department of Human Services, in consultation with the Oklahoma Commission on Children and Youth, shall appoint advisory committees of representatives of child care facilities and others to recommend minimum requirements and desirable standards for promulgation by the Department.

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

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

- (1) a representative of a statewide organization representing children in care arrangements outside their own home,
- (2) a representative of a statewide organization providing residential services to youth in state custody,
- (3) a recipient or former recipient of youth services for children in state custody,
- (4) a representative of a statewide organization promoting adoption services,
- (5) a parent or guardian providing foster care to a child or children in state custody,
- (6) a representative from a nonpublic, long-term residential care facility for children in state custody,
- (7) a representative from an organization promoting the interests of Native American children in state custody,
- (8) a provider of medical services for children,
- (9) a practicing behavioral health services provider,
- (10) a representative from an agency providing child-placing services, and

- 1 (11) other appropriate representatives at the  
2 discretion of the Department of Human Services  
3 and Oklahoma Commission on Children and Youth,
- 4 b. the Child Care Centers subcommittee shall include at a  
5 minimum:
- 6 (1) a representative of a statewide organization  
7 advocating for children in care arrangements  
8 outside their own home,
- 9 (2) a representative of a statewide organization  
10 conducting programs for school-age children,
- 11 (3) a parent or guardian with a child attending a  
12 licensed child care facility,
- 13 (4) a representative of a licensed child care  
14 facility in a rural area,
- 15 (5) a representative of a statewide organization  
16 advocating for licensed child care facilities  
17 owned or operated by Native Americans,
- 18 (6) a representative of a licensed child care  
19 facility in an urban/suburban area,
- 20 (7) a representative of a statewide organization  
21 advocating for programs provided under the Head  
22 Start program,
- 23  
24

1 (8) a representative with knowledge of child care  
2 programs offered by career technology center in  
3 this state,

4 (9) a representative of a statewide organization  
5 advocating for early childhood education  
6 programs,

7 (10) a representative of a statewide organization  
8 providing resources and referrals to child care  
9 facilities,

10 (11) a provider of medical services for children, and

11 (12) other appropriate representatives at the  
12 discretion of the Department of Human Services  
13 and Oklahoma Commission on Children and Youth,

14 c. the Child Care Homes subcommittee shall include at a  
15 minimum:

16 (1) a representative of a statewide organization  
17 advocating for children in care arrangements  
18 outside their own home,

19 (2) a parent or guardian with a child receiving care  
20 at a licensed child care home,

21 (3) a representative of a licensed child care home in  
22 a rural area,

- 1 (4) a representative of a statewide organization  
2 advocating for licensed child care facilities  
3 owned or operated by Native Americans,  
4 (5) a representative of a licensed child care home in  
5 an urban/suburban area,  
6 (6) a representative of a statewide organization  
7 advocating for early childhood education  
8 programs,  
9 (7) a representative of a statewide organization  
10 providing resources and referrals to child care  
11 facilities,  
12 (8) a provider of medical services for children, and  
13 (9) other appropriate representatives at the  
14 discretion of the Department of Human Services  
15 and Oklahoma Commission on Children and Youth,  
16 and

17 d. the Quality Rating and Improvement System subcommittee  
18 shall include representatives of child care centers  
19 and child care homes currently licensed by the ~~State~~  
20 state and other members as determined by the  
21 Department of Human Services and the Oklahoma  
22 Commission on Children and Youth.

23 3. The Department shall create a Child Care Facility Peer  
24 Review Board whose purpose shall be to participate in the

1 Department's grievance process. A majority of the Board shall be  
2 representatives of child care facilities. The Director of the  
3 Department shall promulgate rules specifying the duties of the Child  
4 Care Facility Peer Review Board in the grievance process.

5 4. The advisory committee shall designate two people to serve  
6 on the Department's Stars Administrative Review Panel. At least one  
7 designee shall be the owner or operator of a licensed child care  
8 center.

9 B. Child care facilities shall not allow children to be left  
10 alone in the care of any person under eighteen (18) years of age  
11 without supervision or sixteen (16) years of age with supervision as  
12 delineated by ~~the Department's~~ rules promulgated by the Director.  
13 Child care centers and family child care homes shall not:

14 1. Use soft or loose bedding, including, but not limited to,  
15 blankets, in sleeping equipment or in sleeping areas used only for  
16 infants;

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

19 3. Place a child in sleeping equipment or in a sleeping area  
20 which has not been previously approved for use as such by the  
21 Department.

22 C. The Director of the Department shall promulgate rules  
23 establishing minimum requirements and desirable standards as may be  
24

1 deemed necessary or advisable to carry out the provisions of the  
2 Oklahoma Child Care Facilities Licensing Act.

3 D. Such rules shall not be promulgated until after consultation  
4 with the State Department of Health, the State Department of  
5 Education, the Oklahoma State Bureau of Investigation, the State  
6 Fire Marshal, the Oklahoma Commission on Children and Youth, the  
7 Oklahoma Department of Mental Health and Substance Abuse Services  
8 and any other agency deemed necessary by the Department. Not less  
9 than sixty (60) days' notice, ~~by regular mail,~~ shall be given to all  
10 current licensees before any changes are made in such rules.

11 E. In order to improve the standards of child care, the  
12 Department shall advise and cooperate with licensees, the governing  
13 bodies and staff of licensed child care facilities and assist the  
14 staff through advice of progressive methods and procedures, and  
15 suggestions for the improvement of services.

16 F. The Department may participate in federal programs for child  
17 care services, and enter into agreements or plans on behalf of the  
18 state for that purpose, in accordance with federal laws and  
19 regulations.

20 SECTION 2. AMENDATORY 10 O.S. 2021, Section 404.1, is  
21 amended to read as follows:

22 Section 404.1. A. On and after November 1, 2013:  
23  
24

1        1. Prior to the issuance of a permit or license, owners and  
2 responsible entities making a request to establish or operate a  
3 child care facility shall have:

- 4            a. an Oklahoma State Courts Network search conducted by  
5                the Department,
- 6            b. a Restricted Registry search conducted by the  
7                facility,
- 8            c. a national criminal history records search conducted  
9                pursuant to paragraph 10 of this subsection,
- 10           d. a criminal history records and sex offender registry  
11               search conducted by an authorized source, when the  
12               individual has lived outside this state within the  
13               last five (5) years,
- 14           e. a search of the Department of Corrections' files  
15               maintained pursuant to the Sex Offenders Registration  
16               Act and conducted by the Department of Human Services,
- 17           f. a search of any available child abuse and neglect  
18               registry within a state the individual has resided in  
19               within the last five (5) years,
- 20           g. search of the nontechnical services worker abuse  
21               registry maintained by the State Department of Health  
22               pursuant to Section 1-1950.7 of Title 63 of the  
23               Oklahoma Statutes, and



1           h.    a search of the community services worker registry  
2                   maintained by the Department of Human Services  
3                   pursuant to Section 1025.3 of Title 56 of the Oklahoma  
4                   Statutes;

5       2.   Prior to the employment of an individual:

6           a.    an Oklahoma State Courts Network search, conducted by  
7                   the Department, shall be requested and received by the  
8                   facility; provided however, if twenty-four (24) hours  
9                   has passed from the time the request to the Department  
10                  was made, the facility may initiate employment,  
11                  notwithstanding the provisions of this paragraph,

12          b.    a Restricted Registry search shall be conducted by the  
13                  facility with notification of the search submitted to  
14                  the Department,

15          c.    a national criminal history records search pursuant to  
16                  paragraph 10 of this subsection shall be submitted,

17          d.    a criminal history records and sex offender registry  
18                  search conducted by an authorized source, when the  
19                  individual has lived outside this state within the  
20                  last five (5) years, shall be submitted to the  
21                  Department,

22          e.    a search of the Department of Corrections' files  
23                  maintained pursuant to the Sex Offenders Registration  
24

1 Act shall be conducted by the Department and received  
2 by the facility,

3 f. a search of any available child abuse and neglect  
4 registry within a state the individual has resided in  
5 within the last five (5) years,

6 g. search of the nontechnical services worker abuse  
7 registry maintained by the State Department of Health  
8 pursuant to Section 1-1950.7 of Title 63 of the  
9 Oklahoma Statutes, and

10 h. a search of the community services worker registry  
11 maintained by the Department of Human Services  
12 pursuant to Section 1025.3 of Title 56 of the Oklahoma  
13 Statutes;

14 3. Prior to allowing unsupervised access to children by  
15 employees or individuals, including contract employees and  
16 volunteers and excluding the exceptions in paragraph 8 of this  
17 subsection:

18 a. Oklahoma State Courts Network search results,  
19 conducted by the Department, shall be received by the  
20 facility,

21 b. a ~~Child-Care~~ child care Restricted Registry search  
22 shall be conducted by the facility with notification  
23 of the search submitted to the Department,  
24

- 1           c.    national criminal history records search results  
2               pursuant to paragraph 10 of this subsection shall be  
3               received by the facility,
- 4           d.    a criminal history records and sex offender registry  
5               search conducted by an authorized source, when the  
6               individual has lived outside this state within the  
7               last five (5) years shall be submitted to the  
8               Department,
- 9           e.    a search of the Department of Corrections' files  
10               maintained pursuant to the Sex Offenders Registration  
11               Act shall be conducted by the Department and received  
12               by the facility,
- 13          f.    a search of any available child abuse and neglect  
14               registry within a state the individual has resided in  
15               within the last five (5) years,
- 16          g.    search of the nontechnical services worker abuse  
17               registry maintained by the State Department of Health  
18               pursuant to Section 1-1950.7 of Title 63 of the  
19               Oklahoma Statutes, and
- 20          h.    a search of the community services worker registry  
21               maintained by the Department of Human Services  
22               pursuant to Section 1025.3 of Title 56 of the Oklahoma  
23               Statutes;
- 24

1       4. Prior to the issuance of a permit or license and prior to  
2 the residence of adults who subsequently move into a facility,  
3 adults living in the facility excluding the exception in paragraph 7  
4 of this subsection shall have:

- 5           a. an Oklahoma State Courts Network search conducted by  
6           the Department and the facility shall be in receipt of  
7           the search results,
- 8           b. a Restricted Registry search conducted by the facility  
9           with notification of the search submitted to the  
10          Department,
- 11          c. a national criminal history records search conducted  
12          pursuant to paragraph 10 of this subsection,
- 13          d. a criminal history records and sex offender registry  
14          search conducted by an authorized source, when the  
15          individual has lived outside this state within the  
16          last five (5) years,
- 17          e. a search of the Department of Corrections' files  
18          maintained pursuant to the Sex Offenders Registration  
19          Act conducted by the Department and received by the  
20          facility,
- 21          f. a search of any available child abuse and neglect  
22          registry within a state the individual has resided in  
23          within the last five (5) years,

1           g.    search of the nontechnical services worker abuse  
2               registry maintained by the State Department of Health  
3               pursuant to Section 1-1950.7 of Title 63 of the  
4               Oklahoma Statutes, and

5           h.    a search of the community services worker registry  
6               maintained by the Department of Human Services  
7               pursuant to Section 1025.3 of Title 56 of the Oklahoma  
8               Statutes;

9           5.    Children who reside in the facility and turn eighteen (18)  
10           years of age excluding the exception in paragraph 7 of this  
11           subsection shall have:

12           a.    an Oklahoma State Courts Network search conducted by  
13               the Department,

14           b.    a Restricted Registry search conducted by the facility  
15               with notification of the search submitted to the  
16               Department,

17           c.    a national criminal history records search conducted  
18               pursuant to paragraph 10 of this subsection, and

19           d.    a search of the Department of Corrections' files  
20               pursuant to the Sex Offenders Registration Act  
21               conducted by the Department and received by the  
22               facility;

23           6.    Prior to review of or access to fingerprint results, owners,  
24           responsible entities, directors, and other individuals who have

1 review of or access to fingerprint results shall have a national  
2 criminal history records search pursuant to paragraph 10 of this  
3 subsection;

4 7. Provisions specified in paragraphs 4 and 5 of this  
5 subsection shall not apply to residents who are receiving services  
6 from a residential child care facility;

7 8. A national criminal history records search pursuant to  
8 paragraph 10 of this subsection shall not be required for volunteers  
9 who transport children on an irregular basis when a release is  
10 signed by the parent or legal guardian noting their understanding  
11 that the volunteer does not have a completed national criminal  
12 history records search. The provisions in paragraph 3 of this  
13 subsection shall not be required for specialized service  
14 professionals who are not employed by the program and have  
15 unsupervised access to a child when a release is signed by the  
16 parent or legal guardian noting his or her understanding of this  
17 exception. These exceptions shall not preclude the Department from  
18 requesting a national fingerprint or an Oklahoma State Bureau of  
19 Investigation name-based criminal history records search or  
20 investigating criminal, abusive, or harmful behavior of such  
21 individuals, if warranted;

22 9. A national criminal history records search pursuant to  
23 paragraph 10 of this subsection shall be required on or before  
24 November 1, 2016, for existing owners, responsible entities,

1 employees, individuals with unsupervised access to children, and  
2 adults living in the facility, as of November 1, 2013, unless  
3 paragraph 6 of this subsection applies;

4 10. The Department shall require a national criminal history  
5 records search based upon submission of fingerprints that shall:

- 6 a. be conducted by the Oklahoma State Bureau of  
7 Investigation and the Federal Bureau of Investigation  
8 pursuant to Section 150.9 of Title 74 of the Oklahoma  
9 Statutes and the federal National Child Protection Act  
10 and the federal Volunteers for Children Act with the  
11 Department as the authorized agency,
- 12 b. be submitted and have results received between the  
13 Department and the Oklahoma State Bureau of  
14 Investigation through secure electronic transmissions,
- 15 c. include Oklahoma State Bureau of Investigation ~~rap~~  
16 ~~back~~ Rap Back, requiring the Oklahoma State Bureau of  
17 Investigation to immediately notify the Department  
18 upon receipt of subsequent criminal history activity,  
19 and
- 20 d. be paid by the individual or the facility;

21 11. The Director of the Department, or designee, shall  
22 promulgate rules that may authorize an exception to the  
23 fingerprinting requirements for individuals who have a severe  
24

1 physical condition which precludes such individuals from being  
2 fingerprinted;

3 12. The Director of the Department, or designee, shall  
4 promulgate rules that ensure individuals obtain a criminal history  
5 records search, ~~not to include the re-submission of fingerprints,~~  
6 not less than once during each five (5) year period;

7 13. Any individual who refuses to consent to the criminal  
8 background check or knowingly makes a materially-false statement in  
9 connection with such criminal background check shall be ineligible  
10 for ownership of, employment of or residence in a child care  
11 facility; and

12 14. The Office of Juvenile Affairs shall require national  
13 criminal history records searches, as defined by Section 150.9 of  
14 Title 74 of the Oklahoma Statutes, which shall be provided by the  
15 Oklahoma State Bureau of Investigation for the purpose of obtaining  
16 the national criminal history records search, including Rap Back  
17 notification of and through direct request by the Office of Juvenile  
18 Affairs on behalf of any:

19 a. operator or responsible entity making a request to  
20 establish or operate a secure detention center,  
21 municipal juvenile facility, community intervention  
22 center or secure facility licensed or certified by the  
23 Office of Juvenile Affairs,  
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- 1           b.   employee or applicant of a secure detention center,  
2               municipal juvenile facility, community intervention  
3               center or secure facility licensed or certified by the  
4               Office of Juvenile Affairs, or
- 5           c.   persons allowed unsupervised access to children,  
6               including contract employees or volunteers, of a  
7               secure detention center, municipal juvenile facility,  
8               community intervention center or secure facility  
9               licensed or certified by the Office of Juvenile  
10              Affairs.

11       B. 1. a.   On and after September 1, 1998:

12               (1)   any child-placing agency contracting with a  
13                      person for foster family home services or in any  
14                      manner for services for the care and supervision  
15                      of children shall also, prior to executing a  
16                      contract, complete:

17                      (a)   a foster parent eligibility assessment for  
18                              the foster care provider except as otherwise  
19                              provided by divisions (2) and (4) of this  
20                              subparagraph, and

21                      (b)   a national criminal history records search  
22                              based upon submission of fingerprints for  
23                              any adult residing in the foster family home  
24                              through the Department of Human Services

1                   pursuant to the provisions of Section 1-7-  
2                   106 of Title 10A of the Oklahoma Statutes,  
3                   except as otherwise provided by divisions  
4                   (2) and (4) of this subparagraph,

5           (2)   the child-placing agency may place a child  
6               pending completion of the national criminal  
7               history records search if the foster care  
8               provider and every adult residing in the foster  
9               family home has resided in this state for at  
10              least five (5) years immediately preceding such  
11              placement,

12          (3)   a national criminal history records search based  
13               upon submission of fingerprints to the Oklahoma  
14               State Bureau of Investigation shall also be  
15               completed for any adult who subsequently moves  
16               into the foster family home,

17          (4)   provided, however, the Director of Human Services  
18               or the Director of the Office of Juvenile  
19               Affairs, or a designee, may authorize an  
20               exception to the fingerprinting requirement for a  
21               person residing in the home who has a severe  
22               physical condition which precludes such person's  
23               being fingerprinted, and  
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1 (5) any child care facility contracting with any  
2 person for foster family home services shall  
3 request the Office of Juvenile Affairs to conduct  
4 a juvenile justice information system review,  
5 pursuant to the provisions of Sections 2-7-905  
6 and 2-7-308 of Title 10A of the Oklahoma  
7 Statutes, for any child over the age of thirteen  
8 (13) years residing in the foster family home,  
9 other than a foster child, or who subsequently  
10 moves into the foster family home. As a  
11 condition of contract, the child care facility  
12 shall obtain the consent of the parent or legal  
13 guardian of the child for such review.

14 b. The provisions of this paragraph shall not apply to  
15 foster care providers having a contract or contracting  
16 with a child-placing agency, the Department of Human  
17 Services or the Office of Juvenile Affairs prior to  
18 September 1, 1998. Such existing foster care  
19 providers shall comply with the provisions of this  
20 section, until otherwise provided by rules ~~of the~~  
21 ~~Department~~ promulgated by the Director or by law.

22 2. a. (1) On and after September 1, 1998, except as  
23 otherwise provided in divisions (2) and (4) of  
24 this subparagraph, prior to contracting with a

1 foster family home for placement of any child who  
2 is in the custody of the Department of Human  
3 Services or the Office of Juvenile Affairs, each  
4 Department shall complete a foster parent  
5 eligibility assessment, pursuant to the  
6 provisions of the Oklahoma Child Care Facilities  
7 Licensing Act, for such foster family applicant.  
8 In addition, except as otherwise provided by  
9 divisions (2) and (4) of this subparagraph, the  
10 Department shall complete a national criminal  
11 history records search based upon submission of  
12 fingerprints for any adult residing in such  
13 foster family home.

14 (2) The Department of Human Services and Office of  
15 Juvenile Affairs may place a child pending  
16 completion of the national criminal history  
17 records search if the foster care provider and  
18 every adult residing in the foster family home  
19 has resided in this state for at least five (5)  
20 years immediately preceding such placement.

21 (3) A national criminal history records search based  
22 upon submission of fingerprints conducted by the  
23 Oklahoma State Bureau of Investigation shall also  
24

1 be completed for any adult who subsequently moves  
2 into the foster family home.

3 (4) The Director of Human Services or the Director of  
4 the Office of Juvenile Affairs or their designee  
5 may authorize an exception to the fingerprinting  
6 requirement for any person residing in the home  
7 who has a severe physical condition which  
8 precludes such person's being fingerprinted.

9 b. The provisions of this paragraph shall not apply to  
10 foster care providers having a contract or contracting  
11 with a child-placing agency, the Department of Human  
12 Services or the Office of Juvenile Affairs prior to  
13 September 1, 1998. Such existing foster care  
14 providers shall comply with the provisions of this  
15 section, until otherwise provided by rules ~~of the~~  
16 ~~Department~~ promulgated by the Director or by law.

17 3. The Department of Human Services or the Office of Juvenile  
18 Affairs shall provide for a juvenile justice information system  
19 review pursuant to Section 2-7-308 of Title 10A of the Oklahoma  
20 Statutes for any child over the age of thirteen (13) years residing  
21 in a foster family home, other than the foster child, or who  
22 subsequently moves into the foster family home.

23 C. The Director of the Department or the Board of Juvenile  
24 Affairs shall promulgate rules to identify circumstances when a

1 criminal history records search or foster parent eligibility  
2 assessment for an applicant or contractor, or any person over the  
3 age of thirteen (13) years residing in a private residence in which  
4 a child care facility is located, shall be expanded beyond the  
5 records search conducted by the Oklahoma State Bureau of  
6 Investigation or as otherwise provided pursuant to this section.

7 D. Except as otherwise provided by the Oklahoma Children's Code  
8 and subsection F of this section, a conviction for a crime shall not  
9 be an absolute bar to employment, but shall be considered in  
10 relation to specific employment duties and responsibilities.

11 E. 1. Information received pursuant to this section by an  
12 owner, administrator, or responsible entity of a child care  
13 facility, shall be maintained in a confidential manner pursuant to  
14 applicable state and federal laws.

15 2. The information, along with any other information relevant  
16 to the ability of the individual to perform tasks that require  
17 direct contact with children, may be released to another child care  
18 facility in response to a request from the child care facility that  
19 is considering employing or contracting with the individual unless  
20 deemed confidential by state and federal laws.

21 3. Requirements for confidentiality and recordkeeping with  
22 regard to the information shall be the same for the child care  
23 facility receiving the information in response to a request as those  
24

1 provided for in paragraph 1 of this subsection for the child care  
2 facility releasing such information.

3 4. Information received by any facility certified by the Office  
4 of Juvenile Affairs may be released to another facility certified by  
5 the Office if an individual is being considered for employment or  
6 contract, along with any other relevant information, unless the  
7 information is deemed confidential by state or federal law. Any  
8 information received by the Office shall be maintained in a  
9 confidential manner pursuant to applicable state and federal law.

10 F. 1. It shall be unlawful for individuals who are required to  
11 register pursuant to the Sex Offenders Registration Act to work with  
12 or provide services to children or to reside in a child care  
13 facility and for any employer who offers or provides services to  
14 children to knowingly and willfully employ or contract with, or  
15 allow continued employment of or contracting with individuals who  
16 are required to register pursuant to the Sex Offenders Registration  
17 Act. Individuals required to register pursuant to the Sex Offenders  
18 Registration Act who violate any provision of Section 401 et seq. of  
19 this title shall, upon conviction, be guilty of a felony punishable  
20 by incarceration in a correctional facility for a period ~~of~~ not more  
21 than five (5) years and a fine ~~of~~ not more than Five Thousand  
22 Dollars (\$5,000.00) or both such fine and imprisonment.

23 2. It shall be unlawful for an individual who is the  
24 perpetrator of a substantiated finding by the Department of heinous

1 and shocking abuse by a person responsible for a child's health,  
2 safety, or welfare, as those terms are defined in Section 1-1-105 of  
3 Title 10A of the Oklahoma Statutes, to work with or provide services  
4 to children or to reside in a child care facility and for any  
5 employer who offers or provides services to children to knowingly  
6 and willfully employ or contract with, or allow continued employment  
7 of or contracting with such individual.

8 3. Upon a determination by the Department of any violation of  
9 the provisions of this section, the violator shall be subject to and  
10 the Department may pursue:

- 11 a. an emergency order,
- 12 b. license revocation or denial,
- 13 c. injunctive proceedings,
- 14 d. an administrative penalty not to exceed Ten Thousand  
15 Dollars (\$10,000.00), and
- 16 e. referral for criminal proceedings.

17 4. In addition to the penalties specified by this section, the  
18 violator may be liable for civil damages.

19 SECTION 3. This act shall become effective November 1, 2023.

20 COMMITTEE REPORT BY: COMMITTEE ON HEALTH AND HUMAN SERVICES  
21 February 9, 2023 - DO PASS  
22  
23  
24