

STATE OF OKLAHOMA

2nd Session of the 59th Legislature (2024)

HOUSE BILL 3521

By: Vancuren

AS INTRODUCED

An Act relating to children; amending 10 O.S. 2021, Section 406, which relates to investigations; providing requirements for investigations; authorizing district attorney to extend investigation duration; authorizing the Child Care Facility Review Board to reverse prior decisions; providing that agencies may be liable for certain acts in certain circumstances; providing for codification; and providing an effective date.

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

SECTION 1. AMENDATORY 10 O.S. 2021, Section 406, is amended to read as follows:

Section 406. A. 1. Except as provided in paragraph 2 of this subsection, the Department of Human Services shall have authority at any reasonable time to investigate and examine the conditions of any 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. In conducting the investigation, the Department
20 shall:

21 a. consider and file in its reports evidence, if any,
22 that the child care facility is or could be
23 exonerating a worker,

- 1 b. conclude the investigation in ninety (90) days if
2 there is an allegation of child abuse or conclude the
3 investigation in thirty (30) days if there is no
4 allegation of child abuse,
5 c. use the same burden of proof the judicial system uses
6 if there is an allegation of child abuse, and
7 d. require testimony given by adult witnesses to be in
8 the form of a sworn affidavit. If the adult witness
9 is found to have committed perjury, pursuant to
10 Section 491 of Title 21 of the Oklahoma Statutes, the
11 adult witness may be charged pursuant to Section 500
12 of Title 21 of the Oklahoma Statutes.

13 2. The district attorney may extend the investigation duration
14 beyond ninety (90) days if there is an allegation of child abuse and
15 the evidence warrants an extension.

16 3. The Child Care Facility Review Board, formed pursuant to
17 Section 404 of this title, shall have the authority to reverse prior
18 decisions.

19 D. 1. If upon investigation, it is determined that there are
20 reasonable grounds to believe that a facility is in violation of the
21 Oklahoma Child Care Facilities Licensing Act or of any standard or
22 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 a
3 child's health, safety or welfare, as those terms are defined in
4 Section 1-1-105 of Title 10A of the Oklahoma Statutes, the
5 Department shall notify the child care facility owner or operator
6 and the child care resource and referral organization in writing
7 immediately or not later than one (1) business day after the
8 substantiated finding. Upon receiving notice of a substantiated
9 finding, the facility owner or operator shall attempt to immediately
10 notify, but not later than seventy-two (72) hours after receiving
11 notice of the substantiated finding, parents or legal guardians of
12 children attending the facility by certified mail.

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

20 E. Information obtained by the Department or Oklahoma Child
21 Care Services concerning a report of a violation of a licensing
22 requirement, or from any licensee regarding children or their
23 parents or other relatives shall be deemed confidential and
24 privileged communications, shall be properly safeguarded, and shall
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1 not be accessible to anyone except as herein provided, unless upon
2 order of a court of competent jurisdiction. Provided, however, this
3 provision shall not prohibit the Department from providing a summary
4 of allegations and findings of an investigation involving a child
5 care facility that does not disclose identities but that permits
6 parents to evaluate the facility.

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

12 SECTION 2. NEW LAW A new section of law to be codified
13 in the Oklahoma Statutes as Section 152.4 of Title 51, unless there
14 is created a duplication in numbering, reads as follows:

15 An agency of the State of Oklahoma shall not be immune from
16 liability under the Governmental Tort Claims Act if the tort was the
17 result of an agency failing to act in accordance with existing law,
18 agency rules, or agency policies.

19 SECTION 3. This act shall become effective November 1, 2024.
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