

# An Act

ENROLLED SENATE  
BILL NO. 917

By: David of the Senate

and

Nelson and Pittman of the  
House

An Act relating to child care facilities; amending 10 O.S. 2011, Section 402, which relates to definitions; adding new and modifying existing terms; amending 10 O.S. 2011, Section 403, which relates to exemptions from certain acts; updating exemptions for certain child care facilities; amending 10 O.S. 2011, Section 404, as amended by Section 1, Chapter 225, O.S.L. 2012 (10 O.S. Supp. 2012, Section 404), which addresses minimum requirements and standards; updating references to the Department of Human Services; amending 10 O.S. 2011, Section 404.1, which relates to Child Care Restricted Registry searches; providing standards and procedures for licensing of child care facilities; making language gender neutral; authorizing the Office of Juvenile Affairs to directly request certain searches; amending 10 O.S. 2011, Section 404.3, which relates to liability insurance for facilities; updating references to the Department of Human Services; amending 10 O.S. 2011, Section 405, as amended by Section 1, Chapter 353, O.S.L. 2012 (10 O.S. Supp. 2012, Section 405), which relates to temporary authorization of licenses; updating statutory reference; amending 10 O.S. 2011, Section 405.2, which relates to online child care databases; updating references to the Department of Human Services; amending 10 O.S. 2011, Section 405.3, which relates to the Online Child Care Restricted Registry; updating references to the Department of Human Services; modifying procedure for recording individuals on certain registry; amending 10 O.S. 2011, Section 406, which relates to investigations

and notice of violations; updating references to the Department of Human Services; amending 10 O.S. 2011, Section 407, which relates to revocation of licenses and refusals of issuance; updating references to the Department of Human Services; amending 10 O.S. 2011, Section 409, which relates to injunctions for violations; updating references to Oklahoma district attorneys; and providing an effective date.

SUBJECT: Child care facility requirements

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

SECTION 1. AMENDATORY 10 O.S. 2011, Section 402, is amended to read as follows:

Section 402. As used in the Oklahoma Child Care Facilities Licensing Act:

1. "Adult" means an individual eighteen (18) years of age or older;
2. "Child" or "minor" means any person who has not attained the age of eighteen (18) years;
3. "Child care center" means a ~~facility which provides care and supervision for children and which~~ program that operates for more ~~than~~ thirty (30) or more hours per week;
4. "Child care facility" means any public or private child care residential facility, child-placing agency, foster family home, child care center, part-day ~~child care~~ program, ~~school-age~~ out-of-school time program, ~~summer~~ day camp, drop-in program, program for sick children, family child care home, or large family child care home providing either full-time or part-time care for children away from their own homes;

5. "Child-placing agency" means an agency that arranges for or places a child in a foster family home, adoptive home, or independent living program;

6. "Foster family home" means the private residence of a family which provides foster care services to a child, and includes a specialized foster home, a therapeutic foster family home, or a kinship care home;

7. "Foster parent eligibility assessment" includes a criminal background investigation, including, but not limited to, a national criminal history records search based upon the submission of fingerprints, a home assessment, and any other assessment required by the Department of Human Services, the Office of Juvenile Affairs, or any child-placing agency pursuant to the provisions of ~~the Oklahoma Foster Care and Out of Home Placement Act~~ Section 1-7-106 of Title 10A of the Oklahoma Statutes. A foster parent eligibility assessment shall be similar to the procedures used by the Department of Public Safety for determining suitability of an individual for employment as a highway patrol officer;

~~8. "Commission" means the Commission for Human Services, the policymaking and general supervisory body of the Department;~~

~~9. "Department" means the Department of Human Services;~~

~~10. 9. "Division" means the section within the Department that is assigned responsibilities pursuant to the provisions of the Oklahoma Child Care Facilities Licensing Act;~~

~~11. 10. "Family child care home" means a family home which provides care and supervision for seven or fewer children for part of the twenty-four-hour day. The term "family child care home" shall not include informal arrangements which parents make independently with neighbors, friends, and others, or with caretakers in the child's own home;~~

~~12. 11. "Full-time care" means continuous care given to a child beyond a minimum period of twenty-four (24) hours;~~

~~13.~~ 12. "Large family child care home" means a residential family home which provides care and supervision for eight to twelve children for part of the twenty-four-hour day;

~~14.~~ 13. "Part-day child care program" means a facility program that provides care and supervision for children and that operates for more than fifteen (15) and up to thirty (30) hours per week;

14. "Program" means the business entity that provides care, supervision, and learning opportunities for children;

15. "Rap back" means ~~the capability of a notification from the Oklahoma State Bureau of Investigation to notify child care facilities to the Department~~ of subsequent criminal activity of individuals whose criminal background checks have been completed pursuant to the requirements of the Oklahoma Child Care Facilities Licensing Act; ~~and~~

16. "Residential child care facility" means a twenty-four-hour residential facility where children live together with or are supervised by adults who are not their parents or relatives;

17. "Responsible entity" means an individual who is authorized to obligate the business; and

18. "Specialized service professional" means an individual from an academic discipline or field of expertise who provides individualized services to a child, such as behavioral or physical therapists.

SECTION 2. AMENDATORY 10 O.S. 2011, Section 403, is amended to read as follows:

Section 403. A. The provisions of the Oklahoma Child Care Facilities Licensing Act shall not apply to:

1. Care provided in a child's own home or by relatives;
2. Informal arrangements which parents make with friends or neighbors for the occasional care of their children;

3. Programs in which school-aged children three (3) years of age and older are participating in home-schooling;

4. Programs that serve children three (3) years of age and older and that are operated during typical school hours by a public school district;

5. Programs that serve children three (3) years of age and older and that are operated during typical school hours by a private school that offers elementary education in grades kindergarten through third grade;

6. Summer youth camps for children who are at least five (5) years of age, that are accredited by a national standard-setting agency or church camp accreditation program;

7. Programs in which children attend on a drop-in basis and parents are on the premises and readily accessible;

8. A program of specialized activity or instruction for children that is not designed or intended for child care purposes including, but not limited to, scouts, 4-H clubs and summer resident youth camps, programs that limit children from enrolling in multiple sessions because of the type of activity or ages accepted, and single-activity programs such as academics, athletics, gymnastics, hobbies, art, music, dance and craft instruction;

9. Any child care facility that:

a. provides care and supervision for fifteen (15) or fewer hours per week,

b. operates less than eight (8) weeks annually, or

c. operates in the summer for less than eight (8) hours per day;

10. Facilities whose primary purpose is medical treatment;

11. Boarding schools that have education as their primary purpose and that are recognized as accredited by the State Board of Education. To be exempt, such programs shall:

- a. have classroom facilities that are not used for residential living,
- b. not have been granted nor have assumed legal custody of any child attending the facility, and
- c. adhere to standard educational holiday and seasonal recess periods to permit students reasonable opportunities to return to their primary places of residence with parents or legal guardians;

12. Day treatment programs and maternity homes operated by a licensed hospital; ~~or~~

13. Juvenile facilities certified by the Office of Juvenile Affairs or certified by any other state agency authorized by law to license such facilities;

14. A program where children are not enrolled by the parents and are free to come and go;

15. A program in tribal land as defined at 25 U.S.C.A. 1903 (10); and

16. A program on a military base or federal property.

B. The provisions of the Oklahoma Child Care Facilities Licensing Act shall be equally incumbent upon all private and public child care facilities.

SECTION 3. AMENDATORY 10 O.S. 2011, Section 404, as amended by Section 1, Chapter 225, O.S.L. 2012 (10 O.S. Supp. 2012, Section 404), is amended to read as follows:

Section 404. A. 1. The Department of Human Services shall appoint advisory committees of representatives of child care facilities and others to:

- a. prepare minimum requirements and desirable standards for promulgation by the ~~Commission for Human Services~~ Department, and

- b. provide advice regarding concerns brought by child care facilities or referred by the Department to assist facilities in meeting minimum requirements.

2. Committee members shall be appointed for a three-year term, with a two-consecutive-term limit. A majority of any committee appointed to prepare requirements and standards for child care facilities shall be representatives of child care facilities.

3. The advisory committee shall create a Child Care Facility Peer Review Board whose purpose shall be to participate in the Department's grievance process. The ~~Commission~~ Department shall promulgate rules specifying the duties of the Child Care Facility Peer Review Board in the grievance process.

B. Child care facilities shall not allow children to be left alone in the care of any person under eighteen (18) years of age.

C. The ~~Commission~~ Department shall promulgate rules establishing minimum requirements and desirable standards as may be deemed necessary or advisable to carry out the provisions of the Oklahoma Child Care Facilities Licensing Act.

D. Such rules shall not be promulgated until after consultation with the State Department of Health, the State Department of Education, the Oklahoma State Bureau of Investigation, the State Fire Marshal, and any other agency deemed necessary by the ~~Commission~~ Department. Not less than sixty (60) days' notice, by regular mail, shall be given to all current licensees before any changes are made in such rules.

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

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

SECTION 4. AMENDATORY 10 O.S. 2011, Section 404.1, is amended to read as follows:

Section 404.1.

- ~~A. 1. a. Except as otherwise provided by subsection C of this section, prior to the issuance of a license, the Department of Human Services shall require a criminal history records search, conducted by the Oklahoma State Bureau of Investigation, and a records search of the Oklahoma Child Care Restricted Registry established in Section 405.3 of this title for any person making application to establish or operate a child care facility.~~
- ~~b. Prior to the issuance of a permit or license, the Department shall conduct a records search of the Oklahoma State Courts Network for any person making application to establish or operate a child care facility.~~
- ~~c. Prior to the issuance of a permit or license, the Department shall conduct a records search of the Oklahoma State Courts Network for all employees and persons eighteen (18) years of age or older residing in a child care center, family child care home, large family child care home, part day program, school age program, or summer day camp.~~
- ~~2. a. Prior to the employment of any person in a child care facility, the facility shall submit to the Department of Human Services division responsible for child care licensing:~~
- ~~(1) a criminal history records search conducted by the Oklahoma State Bureau of Investigation,~~
  - ~~(2) documentation of a records search of the Oklahoma Child Care Restricted Registry, and~~

~~(3) a request for the Department to conduct a records search of the records of the Oklahoma State Courts Network.~~

~~b. Hospitals contracting with the Oklahoma Health Care Authority and complying with the records searches required by this section shall be exempt from the requirement to submit such documentation to the Department. Documentation of records searches shall be maintained at the hospital and shall be available for review by the division of the Department responsible for child care licensing.~~

~~e. Prior to allowing any person eighteen (18) years of age or older to reside in a child care center, family child care home, large family child care home, part-day program, school age program, or summer day camp program, the facility shall submit to the Department of Human Services division responsible for child care licensing the following:~~

~~(1) a criminal history records search conducted by the Oklahoma State Bureau of Investigation,~~

~~(2) documentation of a records search of the Oklahoma Child Care Restricted Registry, and~~

~~(3) a request for the Department to conduct a records search of the Oklahoma State Courts Network.~~

~~3. Once a facility has submitted an original document from the Oklahoma State Bureau of Investigation to the Department, a copy of that exact document shall be sufficient to satisfy any further request for that document. The Commission for Human Services may promulgate rules regarding the electronic submission of required documents.~~

~~4. If the following individuals have lived in Oklahoma for less than three (3) years, a criminal history records search shall also be obtained from the authorized agency in the previous states of residence for:~~

- ~~a. applicants for a license to operate a child care facility,~~
- ~~b. employees of a child care facility, and~~
- ~~c. individuals age eighteen (18) years or older residing in a child care center, family child care home, large family child care home, part day program, school age program, or summer day camp program.~~

~~5. The Office of Juvenile Affairs may directly request national criminal history records searches as defined by Section 150.9 of Title 74 of the Oklahoma Statutes from the Oklahoma State Bureau of Investigation for the purpose of obtaining the national criminal history of any employee or applicant who has resided in Oklahoma for less than three (3) years for which a search is required.~~

~~B. A.~~ On and after November 1, 2013:

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

- a. an Oklahoma State Courts Network search conducted by the Department,
- b. a Child Care Restricted Registry search conducted by the facility, and
- c. a national criminal history records search conducted pursuant to paragraph 10 of this subsection,
- d. a criminal history records search conducted by an authorized source, when the individual has lived outside the United States within the last three (3) years, and
- e. a search of the Department of Corrections' files maintained pursuant to the Sex Offenders Registration Act and conducted by the Department of Human Services;

2. Prior to the employment of employees an individual:

- a. an Oklahoma State ~~Court~~ Courts Network search, conducted by the Department, shall be requested and received by the facility; provided however, if twenty-four (24) hours has passed from the time the request to the Department was made, the facility may initiate employment, notwithstanding the provisions of this paragraph,
- b. a Child Care Restricted Registry search shall be conducted by the facility with notification of the search submitted to the Department, and
- c. a national criminal history records search pursuant to paragraph 10 of this subsection shall be submitted ~~to~~ the Department,
- d. a criminal history records search conducted by an authorized source, when the individual has lived outside the United States within the last three (3) years, shall be submitted to the Department, and
- e. a search of the Department of Corrections' files maintained pursuant to the Sex Offenders Registration Act shall be conducted by the Department and received by the facility;

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

- a. Oklahoma State Courts Network search results, conducted by the Department, shall be received by the facility,
- b. a Child Care Restricted Registry search shall be conducted by the facility with notification of the search submitted to the Department, and

- c. national criminal history records search results pursuant to paragraph 10 of this subsection shall be received by the facility,
- d. a criminal history records search conducted by an authorized source, when the individual has lived outside the United States within the last three (3) years shall be submitted to the Department, and
- e. a search of the Department of Corrections' files maintained pursuant to the Sex Offenders Registration Act shall be conducted by the Department and received by the facility;

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

- a. an Oklahoma State ~~Court~~ Courts Network search conducted by the Department and the facility shall be in receipt of the search results,
- b. a Child Care Restricted Registry search conducted by the facility with notification of the search submitted to the Department, and
- c. a national criminal history records search conducted pursuant to paragraph 10 of this subsection,
- d. a criminal history records search conducted by an authorized source, when the individual has lived outside the United States within the last three (3) years, and
- e. a search of the Department of Corrections' files maintained pursuant to the Sex Offenders Registration Act conducted by the Department and received by the facility;

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

- a. an Oklahoma State ~~Court~~ Courts Network search conducted by the Department,
- b. a Child Care Restricted Registry search conducted by the facility with notification of the search submitted to the Department, and
- c. a national criminal history records search conducted pursuant to paragraph 10 of this subsection, and
- d. a search of the Department of Corrections' files pursuant to the Sex Offenders Registration Act conducted by the Department and received by the facility;

6. Prior to review of ~~and~~ or access to fingerprint results, owners, responsible entities, directors, and other ~~employees~~ individuals who have review of ~~and~~ or access to fingerprint results shall have a national criminal history records search pursuant to paragraph 10 of this subsection;

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

8. A national criminal history records search pursuant to paragraph 10 of this subsection shall not be required for ~~parent~~ volunteers who transport children on an irregular basis when a release ~~for each event~~ is signed by the ~~parents~~ parent or legal guardian noting their understanding that the ~~parent~~ volunteer does not have a completed national criminal history records search. ~~This exemption~~ The provisions in paragraph 3 of this subsection shall not be required for specialized service professionals who are not employed by the program and have unsupervised access to a child when a release is signed by the parent or legal guardian noting his or her understanding of this exception. These exceptions shall not preclude the Department from requesting a national fingerprint or an Oklahoma State Bureau of Investigation name-based criminal history

records search or investigating criminal, abusive, or harmful behavior of such individuals, if warranted;

9. A national criminal history records search pursuant to paragraph 10 of this subsection shall be required on or before November 1, 2016, for existing owners, responsible entities, employees, individuals with unsupervised access to children, and adults living in the facility, as of November 1, 2013 unless paragraph 6 of this subsection applies;

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

- a. be conducted by the Oklahoma State Bureau of Investigation and the Federal Bureau of Investigation pursuant to Section 150.9 of Title 74 of the Oklahoma Statutes and the federal National Child Protection Act and the federal Volunteers for Children Act with the Department as the authorized agency,
- b. be submitted and have results received between the Department and the Oklahoma State Bureau of Investigation through secure electronic transmissions,
- c. include Oklahoma State Bureau of Investigation rap back, requiring the Oklahoma State Bureau of Investigation to immediately notify the Department upon receipt of subsequent criminal history activity, and
- d. be paid by the individual or the facility; ~~and~~

11. ~~The Commission for Human Services~~ director of the Department, or designee, shall promulgate rules that may authorize an exception to the fingerprinting requirements for individuals who have a severe physical condition which precludes such individuals from being fingerprinted; and

12. The Office of Juvenile Affairs may directly request national criminal history records searches as defined by Section 150.9 of Title 74 of the Oklahoma Statutes from the Oklahoma State Bureau of Investigation for the purpose of obtaining the national

criminal history of any employee or applicant who has resided in Oklahoma for less than three (3) years for which a search is required.

C.

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

- (1) any child-placing agency contracting with a person for foster family home services or in any manner for services for the care and supervision of children shall also, prior to executing a contract, complete:
  - (a) a foster parent eligibility assessment for the foster care provider except as otherwise provided by divisions (2) and (4) of this subparagraph, and
  - (b) a national criminal history records search based upon submission of fingerprints for any adult residing in the foster family home through the Department of Human Services pursuant to the provisions of ~~the Oklahoma Foster Care and Out of Home Placement Act~~ Section 1-7-106 of Title 10A of the Oklahoma Statutes, except as otherwise provided by divisions (2) and (4) of this subparagraph,
- (2) the child-placing agency may place a child pending completion of the national criminal history records search if the foster care provider and every adult residing in the foster family home has resided in this state for at least five (5) years immediately preceding such placement,
- (3) a national criminal history records search based upon submission of fingerprints to the Oklahoma State Bureau of Investigation shall also be completed for any adult who subsequently moves into the foster family home,

- (4) provided, however, the Director of Human Services or the Director of the Office of Juvenile Affairs, or a designee, may authorize an exception to the fingerprinting requirement for a person residing in the home who has a severe physical condition which precludes such person's being fingerprinted, and
  - (5) any child care facility contracting with any person for foster family home services shall request the Office of Juvenile Affairs to conduct a juvenile justice information system review, pursuant to the provisions of Sections 2-7-905 and 2-7-308 of Title 10A of the Oklahoma Statutes, for any child over the age of thirteen (13) years residing in the foster family home, other than a foster child, or who subsequently moves into the foster family home. As a condition of contract, the child care facility shall obtain the consent of the parent or legal guardian of the child for such review.
- b. The provisions of this paragraph shall not apply to foster care providers having a contract or contracting with a child-placing agency, the Department of Human Services or the Office of Juvenile Affairs prior to September 1, 1998. Such existing foster care providers shall comply with the provisions of this section, until otherwise provided by rules of the Commission for Human Services Department or by law.
2. a. (1) On and after September 1, 1998, except as otherwise provided in divisions (2) and (4) of this subparagraph, prior to contracting with a foster family home for placement of any child who is in the custody of the Department of Human Services or the Office of Juvenile Affairs, each Department shall complete a foster parent eligibility assessment, pursuant to the provisions of the Oklahoma Child Care Facilities Licensing Act, for such foster family applicant.

In addition, except as otherwise provided by divisions (2) and (4) of this subparagraph, the Department shall complete a national criminal history records search based upon submission of fingerprints for any adult residing in such foster family home.

- (2) The Department of Human Services and Office of Juvenile Affairs may place a child pending completion of the national criminal history records search if the foster care provider and every adult residing in the foster family home has resided in this state for at least (5) years immediately preceding such placement.
- (3) A national criminal history records search based upon submission of fingerprints conducted by the Oklahoma State Bureau of Investigation shall also be completed for any adult who subsequently moves into the foster family home.
- (4) The Director of Human Services or the Director of the Office of Juvenile Affairs or their designee may authorize an exception to the fingerprinting requirement for any person residing in the home who has a severe physical condition which precludes such person's being fingerprinted.

- b. The provisions of this paragraph shall not apply to foster care providers having a contract or contracting with a child-placing agency, the Department of Human Services or the Office of Juvenile Affairs prior to September 1, 1998. Such existing foster care providers shall comply with the provisions of this section, until otherwise provided by rules of the ~~Commission for Human Services~~ Department or by law.

3. ~~Each~~ The Department of Human Services or the Office of Juvenile Affairs shall provide for a juvenile justice information system review pursuant to Section 2-7-308 of Title 10A of the Oklahoma Statutes for any child over the age of thirteen (13) years

residing in a foster family home, other than the foster child, or who subsequently moves into the foster family home.

~~D. C.~~ The Commission for Human Services Department or the Board of Juvenile Affairs shall promulgate rules to identify circumstances when a criminal history records search or foster parent eligibility assessment for an applicant or contractor, or any person over the age of thirteen (13) years residing in a private residence in which a child care facility is located, shall be expanded beyond the records search conducted by the Oklahoma State Bureau of Investigation or as otherwise provided pursuant to this section.

~~E. 1.~~ The following individuals shall not be required to obtain a criminal history records search or a national criminal history records search based upon submission of fingerprints pursuant to this section:

- ~~a. a parent volunteer who transports children on an irregular basis, and~~
- ~~b. a child residing in a child care center, family child care home, or large family child care home who became an adult during continuous residence at the licensed or approved facility.~~

~~2.~~ These exemptions shall not preclude the Department from requesting a criminal history records search or requesting a national criminal history records search based upon submission of fingerprints or investigating criminal, abusive or harmful behavior of such individuals, if warranted.

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

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

~~H. 1. A criminal history records search conducted by the Oklahoma State Bureau of Investigation and a national criminal history records search based upon submission of fingerprints shall include a search of Department of Corrections' files maintained pursuant to the Sex Offenders Registration Act.~~

~~2. a.~~

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

~~b.~~

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

~~(1)~~

a. an emergency order,

~~(2)~~

b. license revocation or denial,

~~(3)~~

c. injunctive proceedings,

~~(4)~~

d. an administrative penalty not to exceed Ten Thousand Dollars (\$10,000.00), and

~~(5)~~

e. referral for criminal proceedings.

~~e.~~

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

SECTION 5. AMENDATORY 10 O.S. 2011, Section 404.3, is amended to read as follows:

Section 404.3. A. A child care facility shall maintain liability insurance coverage of at least Two Hundred Thousand Dollars (\$200,000.00) for each occurrence of negligence. An insurance policy or contract required under this section shall cover injury to a child due to negligence that occurs while the child is in the care of the child care facility.

B. The Department of Human Services shall promulgate rules providing for a standard form to be signed and dated by an insurance agent licensed in this state stating that the child care facility has an unexpired and uncanceled insurance policy or contract of at least Two Hundred Thousand Dollars (\$200,000.00) that meets the requirements of this section. This form shall be completed annually and shall be maintained by the child care facility. Upon request, the form shall be made available to the Department to determine compliance with licensing requirements.

C. Should the child care facility for financial reasons or for lack of availability of an underwriter willing to issue a policy be unable to secure the insurance required under subsection A of this section, should the policy limits be exhausted, or if the child care facility reports self-insurance in accordance with state law the child care facility shall:

1. Post a notice at the facility indicating the facility does not have liability insurance coverage pursuant to this section or reports self-insurance in accordance with state law; and

2. Notify the Department that coverage is not provided or that the facility reports self-insurance in accordance with state law.

D. The ~~Commission for Human Services~~ Department shall promulgate rules providing for a standard form for the facility to post which indicates the facility does not carry liability insurance or reports self-insurance in accordance with state law. In no case shall the inability to secure coverage serve to indemnify the child care facility due to negligence.

E. The insurance policy or contract shall be maintained at all times in an amount as required by this section, except as provided for in subsection C of this section.

F. The requirements for posting shall not apply to:

1. Licensed child-placing agencies;
2. Licensed residential child care facilities; or
3. Department-certified child care facilities.

G. The ~~Commission~~ Department may promulgate rules requiring liability insurance for facilities listed in subsection F of this section.

H. Failure by a child care facility to comply with the provisions of this section is grounds for suspension or revocation of the child care facility license under the Oklahoma Child Care Facilities Licensing Act.

SECTION 6. AMENDATORY 10 O.S. 2011, Section 405, as amended by Section 1, Chapter 353, O.S.L. 2012 (10 O.S. Supp. 2012, Section 405), is amended to read as follows:

Section 405. A. No child care facility may be operated or maintained in this state, unless licensed or temporarily authorized by the Department of Human Services, except for the shelters certified by the Office of Juvenile Affairs pursuant to Section 2-7-202 of Title 10A of the Oklahoma Statutes; ~~provided, that the Department shall not be required to be licensed, but shall be bound~~

~~by the standards it prescribes.~~ No new child care facility may be established without the prior approval of the Department, which shall be granted only after the Department is satisfied that the facility will meet minimum standards for a license to operate.

B. The Department shall not grant approval for a permit, or a license for a new child care facility to receive and care for children until:

1. All background investigation requirements are met pursuant to Section 404.1 of this title; and

2. All required training including, but not limited to, cardiopulmonary resuscitation (CPR), first aid, health and safety training, and minimum education requirements pursuant to licensing requirements have been completed for any person left alone with children.

C. The incorporation or domestication of a corporation organized for the purpose of operating a child care facility shall not exempt such corporation from compliance with the provisions of Sections 401 through 418 of this title.

D. An application for a license shall be made on forms provided by the Department and in the manner prescribed. Temporary authorization may be granted to allow the Department to investigate the activities and standards of care of the applicant. The Department may issue a license once it is satisfied that the applicant meets the requirements as provided in Sections 401 through 418 of this title. All licenses shall be in force unless revoked as authorized by Section 407 of this title.

SECTION 7. AMENDATORY 10 O.S. 2011, Section 405.2, is amended to read as follows:

Section 405.2. A. ~~The Commission for Human Services~~ Department of Human Services shall promulgate rules to establish and maintain an online database accessible to the public that contains information including, but not limited to:

1. The name, address, and phone number of all child care centers licensed by the Department of Human Services, and the name,

address, and phone number of all child care homes licensed by the Department; and

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

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

SECTION 8. AMENDATORY 10 O.S. 2011, Section 405.3, is amended to read as follows:

Section 405.3. A. On or before July 1, 2010, the ~~Commission for Human Services~~ Department of Human Services shall promulgate rules to establish and maintain the Child Care Restricted Registry, accessible to the public through an online database, to address:

1. A procedure for recording individuals on the restricted registry resulting from:

- a. a finding of abuse or neglect, as defined in Section 1-1-105 of Title 10A of the Oklahoma Statutes, by an individual when the abuse or neglect occurred to children while in the care of a child care facility licensed by the Department,
- b. a revocation or denial of a child care facility license, and
- c. a specified criminal history of an individual, as defined by rules promulgated by the ~~Oklahoma Commission for Human Services~~ Department;

2. A procedure to provide notice and an opportunity for review prior to recording an individual on the restricted registry;

3. Disclosure requirements for information on the restricted registry; and

4. A procedure to prohibit licensure, ownership, employment, unsupervised access to children, or residence in a child care facility licensed by the Department of individuals recorded on the restricted registry.

B. The Child Care Restricted Registry shall include, but not be limited to:

1. The full name of the individual;
2. Information necessary to identify the individual; and
3. The date the individual was recorded on the restricted registry.

SECTION 9. AMENDATORY 10 O.S. 2011, Section 406, is amended to read as follows:

Section 406. A. 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.

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

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

C. 1. Upon receipt of a complaint against any child care facility alleging a violation of the provisions of the Oklahoma Child Care Facilities Licensing Act, or any licensing standard promulgated by ~~the Commission for Human Services~~, the Department, the Department shall conduct a full investigation. If upon investigation, it is determined that there are reasonable grounds to believe that a facility is in violation of the Oklahoma Child Care

Facilities Licensing Act or of any standard or rule promulgated pursuant thereto, the Department shall:

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

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

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

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

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

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

SECTION 10. AMENDATORY 10 O.S. 2011, Section 407, is amended to read as follows:

Section 407. A. The Department of Human Services may revoke or deny issuance of the license of any child care facility found to be in violation of any provision of this act or the rules of the ~~Commission for Human Services~~ Department, as provided in Section 404 of this title.

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

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

3. If the revocation or denial is protested within thirty (30) days of receipt of notice, by writing addressed to the ~~Commission for Human Services~~ Department, the ~~Commission~~ Department, or its authorized agency, shall conduct a hearing at which an opportunity shall be given to the licensee or applicant to present testimony and confront witnesses.

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

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

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

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

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

- a. An emergency order shall be effective immediately. Any person to whom an emergency order is directed shall comply with the emergency order immediately but, upon written request to the Department on or before the tenth day after receipt of the emergency order, shall be afforded a hearing on or before the tenth day after receipt of the request by the Department.
- b. On the basis of such hearing, the Department shall continue the order in effect, revoke it, or modify it.
- c. Any person aggrieved by the order continued after the hearing provided for in this subsection may appeal to the district court of the area affected within ten

(10) days. The appeal when docketed shall have priority over all cases pending on the docket, except criminal cases.

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

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

F. In addition to any other remedy authorized by this act, a CLEET-certified officer may issue a citation for a violation of any provision of this act or rules of the ~~Commission for Human Services Department~~ as provided in Section 404 of this title. The fine shall not be less than One Hundred Dollars (\$100.00) nor more than Five Hundred Dollars (\$500.00) for every day the facility maintains and receives children after:

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

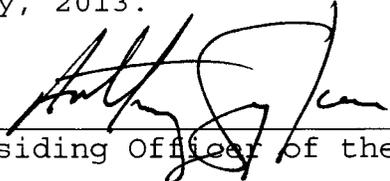
G. One-half (1/2) of the funds collected pursuant to subsection F of this section shall be deposited in the Quality of Care Development Fund established in Section 10 of this act and one-half (1/2) shall be retained by the law enforcement agency represented by the CLEET-certified officer.

SECTION 11. AMENDATORY 10 O.S. 2011, Section 409, is amended to read as follows:

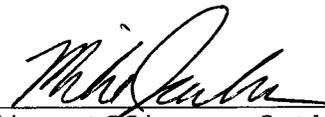
Section 409. Any person or child care facility may be enjoined from maintaining and operating such facility for violations of any provisions of this act by suit brought in the name of the state by the Attorney General of Oklahoma or by a ~~county~~ district attorney.

SECTION 12. This act shall become effective November 1, 2013.

Passed the Senate the 9th day of May, 2013.

  
Presiding Officer of the Senate

Passed the House of Representatives the 18th day of April, 2013.

  
Presiding Officer of the House  
of Representatives

OFFICE OF THE GOVERNOR

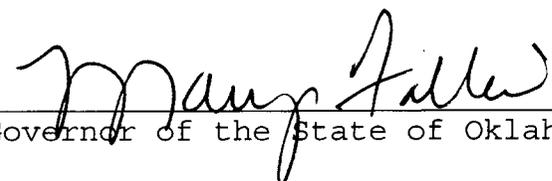
Received by the Office of the Governor this 13<sup>th</sup>

day of May, 20 13, at 2:54 o'clock P M.

By: Audrey Rockwell

Approved by the Governor of the State of Oklahoma this 16<sup>th</sup>

day of May, 20 13, at 10:23 o'clock A M.

  
Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this 16<sup>th</sup>

day of May, 20 13, at 11:35 o'clock A M.

By: Chris Prouse