

1 STATE OF OKLAHOMA

2 2nd Session of the 53rd Legislature (2012)

3 HOUSE BILL 3095

By: Williams

4  
5 AS INTRODUCED

6 An Act relating to children; amending 10 O.S. 2011,  
7 Sections 401, 402, 404, 404.1, 404.3, 405, 405.1,  
8 405.2, 405.3, 406, 406.1, 407, 408, 410.1 and 412,  
9 which relate to the Oklahoma Child Care Facilities  
10 Licensing Act; making State Department of Education  
11 the licensing authority; modifying definitions;  
12 providing for the transfer of authority to license  
13 child care homes or facilities to the State  
14 Department of Education; providing for the transfer  
15 of certain records; providing for the continuation of  
16 certain contracts; directing State Department of  
17 Education to enforce certain rules; specifying  
18 licensing powers and duties of State Department of  
19 Education; providing for the transfer of certain  
20 employees of the Department of Human Services to the  
21 State Department of Education; providing for  
22 retention of certain employees; providing for  
23 retention of earned leave and certain benefits;  
24 directing Department of Central Services to provide  
office space; directing State Department of Education  
to establish certain grievance system; and providing  
an effective date.

18  
19 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

20 SECTION 1. AMENDATORY 10 O.S. 2011, Section 401, is  
21 amended to read as follows:

22 Section 401. A. Sections 401 through 418 of this title shall  
23 be known and may be cited as the "Oklahoma Child Care Facilities  
24 Licensing Act".

1 B. It is the declared purpose and policy of the Oklahoma Child  
2 Care Facilities Licensing Act, to:

3 1. Ensure maintenance of minimum standards for the care and  
4 protection of children away from their own homes;

5 2. Encourage and assist the child care facility toward maximum  
6 standards; and

7 3. Work for the development of sufficient and adequate services  
8 for child care through joint work of public, private and voluntary  
9 agencies. Whenever possible, child care facilities should help to  
10 preserve and restore family life for children.

11 C. In order to provide care for children in child care  
12 facilities, a license shall be obtained from the State Department of  
13 ~~Human Services~~ Education, which is issued on the basis of meeting  
14 minimum standards which are essential for the health and welfare of  
15 the child or children placed for care with such agencies and  
16 individuals.

17 D. ~~The Child Care Facilities Licensing Division within the~~  
18 State Department of ~~Human Services~~ Education shall work with  
19 representatives from municipalities to develop a single child care  
20 licensure procedure for use by state and local entities.

21 SECTION 2. AMENDATORY 10 O.S. 2011, Section 402, is  
22 amended to read as follows:

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

- 1        1. "Adult" means an individual eighteen (18) years of age or  
2 older;
- 3        2. "Child" or "minor" means any person who has not attained the  
4 age of eighteen (18) years;
- 5        3. "Child care center" means a facility which provides care and  
6 supervision for children and which operates for more than thirty  
7 (30) hours per week;
- 8        4. "Child care facility" means any public or private child care  
9 residential facility, child-placing agency, foster family home,  
10 child care center, part-day child care program, school-age program,  
11 summer day camp, family child care home, or large family child care  
12 home providing either full-time or part-time care for children away  
13 from their own homes;
- 14       5. "Child-placing agency" means an agency that arranges for or  
15 places a child in a foster family home, adoptive home, or  
16 independent living program;
- 17       6. "Foster family home" means the private residence of a family  
18 which provides foster care services to a child, and includes a  
19 specialized foster home, a therapeutic foster family home, or a  
20 kinship care home;
- 21       7. "Foster parent eligibility assessment" includes a criminal  
22 background investigation, including, but not limited to, a national  
23 criminal history records search based upon the submission of  
24 fingerprints, a home assessment, and any other assessment required

1 by the Department of Human Services, the Office of Juvenile Affairs,  
2 or any child-placing agency pursuant to the provisions of the  
3 Oklahoma Foster Care and Out-of-Home Placement Act. A foster parent  
4 eligibility assessment shall be similar to the procedures used by  
5 the Department of Public Safety for determining suitability of an  
6 individual for employment as a highway patrol officer;

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

9 ~~9. "Department" means the State Department of ~~Human Services~~~~  
10 ~~Education;~~

11 ~~10. 9.~~ "Division" means the section within the Department that  
12 is assigned responsibilities pursuant to the provisions of the  
13 Oklahoma Child Care Facilities Licensing Act;

14 ~~11. 10.~~ "Family child care home" means a family home which  
15 provides care and supervision for seven or fewer children for part  
16 of the twenty-four-hour day. The term "family child care home"  
17 shall not include informal arrangements which parents make  
18 independently with neighbors, friends, and others, or with  
19 caretakers in the child's own home;

20 ~~12. 11.~~ "Full-time care" means continuous care given to a child  
21 beyond a minimum period of twenty-four (24) hours;

22 ~~13. 12.~~ "Large family child care home" means a residential  
23 family home which provides care and supervision for eight to twelve  
24 children for part of the twenty-four-hour day;

1       ~~14.~~ 13. "Part-day child care program" means a facility that  
2 provides care and supervision for children and that operates for  
3 more than fifteen (15) and up to thirty (30) hours per week;

4       ~~15.~~ 14. "Rap back" means the capability of the Oklahoma State  
5 Bureau of Investigation to notify child care facilities of  
6 subsequent criminal activity of individuals whose criminal  
7 background checks have been completed pursuant to the requirements  
8 of the Oklahoma Child Care Facilities Licensing Act; and

9       ~~16.~~ 15. "Residential child care facility" means a twenty-four-  
10 hour residential facility where children live together with or are  
11 supervised by adults who are not their parents or relatives.

12       SECTION 3.       AMENDATORY       10 O.S. 2011, Section 404, is  
13 amended to read as follows:

14       Section 404. A. Effective July 1, 2013, the State Department  
15 of Education shall assume responsibility for the licensing of child  
16 care facilities. On July 1, 2013, all child care licensing records  
17 in the possession of the Department of Human Services shall be  
18 transferred to the State Department of Education. The State  
19 Department of Education shall assume responsibility for all existing  
20 Department of Human Services child-care-licensing-related contracts  
21 in effect on July 1, 2013. The State Department of Education shall  
22 enforce all rules in effect on July 1, 2013, until such time that  
23 new rules are promulgated by the Department pursuant to the Oklahoma  
24 Child Care Facilities Licensing Act. The Department, acting through

1 the State Superintendent of Public Instruction, or persons  
2 authorized by law, rule or designated by the State Superintendent to  
3 perform such acts, shall have the power and duty to:

4 1. Advise, consult, cooperate and enter into agreements with  
5 agencies of the state, municipalities and counties, other states and  
6 the federal government, and other persons;

7 2. Enter into agreements for, accept, administer and use,  
8 disburse and administer grants of money, personnel and property from  
9 the federal government or any department or agency thereof, or from  
10 any state or state agency, or from any other source, to promote and  
11 carry on in this state any program within its area of  
12 responsibility;

13 3. Require the establishment and maintenance of records and  
14 reports;

15 4. Establish a system of training for personnel in order to  
16 assure uniform statewide application of law and rules;

17 5. Enforce the provisions of the Oklahoma Child Care Facilities  
18 Licensing Act and rules promulgated thereunder and orders issued  
19 pursuant thereto;

20 6. Charge and receive fees pursuant to fee schedules  
21 promulgated by the State Department of Education;

22 7. Conduct studies, research and planning of programs and  
23 functions, pursuant to the authority granted by the Oklahoma Child  
24 Care Facilities Licensing Act;

1       8. Enter into interagency agreements;

2       9. Lease, from time to time, any real property which the State  
3 Superintendent of Public Instruction shall determine advisable to  
4 more fully carry into effect the requirements of the Oklahoma Child  
5 Care Facilities Licensing Act in accordance with applicable state  
6 statutes. All such leases for real property shall be subject to the  
7 provisions of Section 63 of Title 74 of the Oklahoma Statutes;

8       10. Purchase or lease any equipment, supplies or materials  
9 pursuant to The Oklahoma Central Purchasing Act;

10       11. Contract for professional services;

11       12. Acquire, construct, extend, and operate any and all  
12 facilities of all kinds which in the judgment of the State  
13 Superintendent of Public Instruction and the approval of the  
14 Legislature shall be necessary or convenient to carry out the duties  
15 of the State Department of Education, as authorized by law; and

16       13. Exercise all incidental powers which are necessary and  
17 proper to implement and administer the purposes of the Oklahoma  
18 Child Care Facilities Licensing Act.

19       B. Any Department of Human Services employee involved in child  
20 care licensing on July 1, 2013, shall be eligible for transfer to  
21 the State Department of Education if the State Department of  
22 Education determines that the employee is qualified and capable of  
23 performing the duties required. Any Department of Human Services  
24 employee not hired by the State Department of Education may be

1 retained by the Department of Human Services. The Department of  
2 Human Services shall develop a plan providing for the transfer of  
3 employees to a different division within the agency or for the  
4 termination by operation of law of any employees not to be retained.  
5 Any annual, sick and compensatory time and retirement, longevity or  
6 other benefits accrued by Department of Human Services employees who  
7 are hired by the State Department of Education shall be retained by  
8 the employee.

9 C. Suitable office space shall be provided by the Department of  
10 Central Services to the State Department of Education, to the extent  
11 necessary for the Department to implement its duties as required by  
12 the Oklahoma Child Care Facilities Licensing Act, and the Department  
13 may incur necessary expenses for office rent.

14 D. The State Department of Education shall maintain a fair,  
15 simple and expeditious system for resolution of grievances of all  
16 persons directly affected by the State Department of Education  
17 regarding the substance or application of any written or unwritten  
18 policy, rule of the Department or of an agent or contractor of the  
19 Department or any decision, behavior or action by an employee, agent  
20 or contractor or by any other person affected by the Department.

21 E. The State Department of ~~Human Services~~ Education shall  
22 appoint advisory committees of representatives of child care  
23 facilities and others to prepare minimum requirements and desirable  
24 standards for promulgation by the ~~Commission for Human Services~~



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

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

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

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

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

23 ~~F.~~ J. The Department may participate in federal programs for  
24 child care services, and enter into agreements or plans on behalf of

1 the state for that purpose, in accordance with federal laws and  
2 regulations.

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

5 Section 404.1

6 A. 1. a. Except as otherwise provided by subsection C of this  
7 section, prior to the issuance of a license, the State  
8 Department of ~~Human Services~~ Education shall require a  
9 criminal history records search, conducted by the  
10 Oklahoma State Bureau of Investigation, and a records  
11 search of the Oklahoma Child Care Restricted Registry  
12 established in Section 405.3 of this title for any  
13 person making application to establish or operate a  
14 child care facility.

15 b. Prior to the issuance of a permit or license, the  
16 Department shall conduct a records search of the  
17 Oklahoma State Courts Network for any person making  
18 application to establish or operate a child care  
19 facility.

20 c. Prior to the issuance of a permit or license, the  
21 Department shall conduct a records search of the  
22 Oklahoma State Courts Network for all employees and  
23 persons eighteen (18) years of age or older residing  
24 in a child care center, family child care home, large

1 family child care home, part-day program, school-age  
2 program, or summer day camp.

3 2. a. Prior to the employment of any person in a child care  
4 facility, the facility shall submit to the State  
5 Department of ~~Human Services~~ Education division  
6 responsible for child care licensing:

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

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

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

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

22 c. Prior to allowing any person eighteen (18) years of  
23 age or older to reside in a child care center, family  
24 child care home, large family child care home, part-

1 day program, school-age program, or summer day camp  
2 program, the facility shall submit to the State  
3 Department of ~~Human Services~~ Education division  
4 responsible for child care licensing the following:

- 5 (1) a criminal history records search conducted by  
6 the Oklahoma State Bureau of Investigation,
- 7 (2) documentation of a records search of the Oklahoma  
8 Child Care Restricted Registry, and
- 9 (3) a request for the Department to conduct a records  
10 search of the Oklahoma State Courts Network.

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

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

- 21 a. applicants for a license to operate a child care  
22 facility,
- 23 b. employees of a child care facility, and

1 c. individuals age eighteen (18) years or older residing  
2 in a child care center, family child care home, large  
3 family child care home, part-day program, school-age  
4 program, or summer day-camp program.

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

11 B. On and after November 1, 2013:

12 1. Prior to the issuance of a permit or license, individuals  
13 making application to establish or operate a child care facility  
14 shall have:

15 a. an Oklahoma State Courts Network search conducted by  
16 the Department,

17 b. a Child Care Restricted Registry search conducted by  
18 the facility, and

19 c. a national criminal history records search pursuant to  
20 paragraph 10 of this subsection;

21 2. Prior to the employment of employees:

22 a. an Oklahoma State Court Network search, conducted by  
23 the Department, shall be requested by the facility,  
24

1           b.    a Child Care Restricted Registry search shall be  
2                    conducted by the facility, and

3           c.    a national criminal history records search pursuant to  
4                    paragraph 10 of this subsection shall be submitted to  
5                    the Department;

6           3.    Prior to allowing unsupervised access to children by  
7 employees or individuals, including contract employees and  
8 volunteers:

9           a.    Oklahoma State Courts Network search results,  
10                   conducted by the Department, shall be received by the  
11                   facility,

12           b.    a Child Care Restricted Registry search shall be  
13                   conducted by the facility, and

14           c.    national criminal history records search results shall  
15                   be received by the facility;

16           4.    Prior to the issuance of a permit or license and prior to  
17 the residence of adults who subsequently move into a facility,  
18 adults living in the facility shall have:

19           a.    an Oklahoma State Court Network search conducted by  
20                   the Department and the facility shall be in receipt of  
21                   the search results,

22           b.    a Child Care Restricted Registry search conducted by  
23                   the facility, and

1 c. a national criminal history records search pursuant to  
2 paragraph 10 of this subsection;

3 5. Children who reside in the facility and turn eighteen (18)  
4 years of age shall have:

5 a. an Oklahoma State Court Network search conducted by  
6 the Department,

7 b. a Child Care Restricted Registry search conducted by  
8 the facility, and

9 c. a national criminal history records search pursuant to  
10 paragraph 10 of this subsection;

11 6. Prior to review of and access to fingerprint results,  
12 owners, directors, and other employees who have review of and access  
13 to fingerprint results shall have a national criminal history  
14 records search pursuant to paragraph 10 of this subsection;

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

18 8. A national criminal history records search pursuant to  
19 paragraph 10 of this subsection shall not be required for parent  
20 volunteers who transport children on an irregular basis when a  
21 release for each event is signed by the parents noting their  
22 understanding that the parent volunteer does not have a completed  
23 national criminal history records search. This exemption shall not  
24 preclude the Department from requesting a national fingerprint or an

1 Oklahoma State Bureau of Investigation name-based criminal history  
2 records search or investigating criminal, abusive, or harmful  
3 behavior of such individuals, if warranted;

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

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

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



1        11. The ~~Commission for Human Services~~ State Department of  
2 Education shall promulgate rules that may authorize an exception to  
3 the fingerprinting requirements for individuals who have a severe  
4 physical condition which precludes such individuals from being  
5 fingerprinted.

6        C. 1. a. On and after September 1, 1998:

7                (1) any child-placing agency contracting with a  
8                person for foster family home services or in any  
9                manner for services for the care and supervision  
10               of children shall also, prior to executing a  
11               contract, complete:

12                    (a) a foster parent eligibility assessment for  
13                    the foster care provider except as otherwise  
14                    provided by divisions (2) and (4) of this  
15                    subparagraph, and

16                    (b) a national criminal history records search  
17                    based upon submission of fingerprints for  
18                    any adult residing in the foster family home  
19                    through the Department of Human Services  
20                    pursuant to the provisions of the Oklahoma  
21                    Foster Care and Out-of-Home Placement Act,  
22                    except as otherwise provided by divisions  
23                    (2) and (4) of this subparagraph,  
24

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

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

13 (4) provided, however, the ~~Director of Human Services~~  
14 State Department of Education or the Director of  
15 the Office of Juvenile Affairs, or a designee,  
16 may authorize an exception to the fingerprinting  
17 requirement for a person residing in the home who  
18 has a severe physical condition which precludes  
19 such person's being fingerprinted, and

20 (5) any child care facility contracting with any  
21 person for foster family home services shall  
22 request the Office of Juvenile Affairs to conduct  
23 a juvenile justice information system review,  
24 pursuant to the provisions of Sections 2-7-905

1 and 2-7-308 of Title 10A of the Oklahoma  
2 Statutes, for any child over the age of thirteen  
3 (13) years residing in the foster family home,  
4 other than a foster child, or who subsequently  
5 moves into the foster family home. As a  
6 condition of contract, the child care facility  
7 shall obtain the consent of the parent or legal  
8 guardian of the child for such review.

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 ~~Commission for Human Services~~ State Department of  
17 Education or by law.

18 2. a. (1) On and after September 1, 1998, except as  
19 otherwise provided in divisions (2) and (4) of  
20 this subparagraph, prior to contracting with a  
21 foster family home for placement of any child who  
22 is in the custody of the Department of Human  
23 Services or the Office of Juvenile Affairs, each  
24 Department shall complete a foster parent

1 eligibility assessment, pursuant to the  
2 provisions of the Oklahoma Child Care Facilities  
3 Licensing Act, for such foster family applicant.  
4 In addition, except as otherwise provided by  
5 divisions (2) and (4) of this subparagraph, the  
6 Department shall complete a national criminal  
7 history records search based upon submission of  
8 fingerprints for any adult residing in such  
9 foster family home.

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

17 (3) A national criminal history records search based  
18 upon submission of fingerprints conducted by the  
19 Oklahoma State Bureau of Investigation shall also  
20 be completed for any adult who subsequently moves  
21 into the foster family home.

22 (4) ~~The Director of Human Services~~ Superintendent of  
23 the State Department of Education or the Director  
24 of the Office of Juvenile Affairs or designee may

1 authorize an exception to the fingerprinting  
2 requirement for any person residing in the home  
3 who has a severe physical condition which  
4 precludes such person's being fingerprinted.

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

13 3. Each Department shall provide for a juvenile justice  
14 information system review pursuant to Section 2-7-308 of Title 10A  
15 of the Oklahoma Statutes for any child over the age of thirteen (13)  
16 years residing in a foster family home, other than the foster child,  
17 or who subsequently moves into the foster family home.

18 D. ~~The Commission for Human Services~~ State Department of  
19 Education or the Board of Juvenile Affairs shall promulgate rules to  
20 identify circumstances when a criminal history records search or  
21 foster parent eligibility assessment for an applicant or contractor,  
22 or any person over the age of thirteen (13) years residing in a  
23 private residence in which a child care facility is located, shall  
24 be expanded beyond the records search conducted by the Oklahoma

1 State Bureau of Investigation or as otherwise provided pursuant to  
2 this section.

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

7 a. a parent volunteer who transports children on an  
8 irregular basis, and

9 b. a child residing in a child care center, family child  
10 care home, or large family child care home who became  
11 an adult during continuous residence at the licensed  
12 or approved facility.

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

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

22 G. Information received pursuant to this section by an owner or  
23 administrator of a child care facility shall be maintained in a  
24 confidential manner pursuant to applicable state and federal laws.

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

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

23 b. Upon a determination by the Department of any  
24 violation of the provisions of this section, the

1 violator shall be subject to and the Department may  
2 pursue:

- 3 (1) an emergency order,
- 4 (2) license revocation or denial,
- 5 (3) injunctive proceedings,
- 6 (4) an administrative penalty not to exceed Ten  
7 Thousand Dollars (\$10,000.00), and
- 8 (5) referral for criminal proceedings.

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

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

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

19 B. The State Department of ~~Human Services~~ Education shall  
20 promulgate rules providing for a standard form to be signed and  
21 dated by an insurance agent licensed in this state stating that the  
22 child care facility has an unexpired and uncanceled insurance  
23 policy or contract of at least Two Hundred Thousand Dollars  
24 (\$200,000.00) that meets the requirements of this section. This



1 form shall be completed annually and shall be maintained by the  
2 child care facility. Upon request, the form shall be made available  
3 to the Department to determine compliance with licensing  
4 requirements.

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

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

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

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

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

1 F. The requirements for posting shall not apply to:

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

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

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

12 SECTION 6. AMENDATORY 10 O.S. 2011, Section 405, is  
13 amended to read as follows:

14 Section 405. A. No child care facility may be operated or  
15 maintained in this state, unless licensed or temporarily authorized  
16 by the State Department of ~~Human Services~~ Education, except for the  
17 shelters certified by the Oklahoma Commission on Children and Youth  
18 pursuant to Section 601.3 of this title; provided, that the  
19 Department of Human Services shall not be required to be licensed,  
20 but shall be bound by the standards ~~it prescribes~~ prescribed by the  
21 State Department of Education. No new child care facility may be  
22 established without the prior approval of the State Department of  
23 Education, which shall be granted only after the Department is

1 satisfied that the facility will meet minimum standards for a  
2 license to operate.

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

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

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

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

17 D. An application for a license shall be made on forms provided  
18 by the State Department of Education and in the manner prescribed.  
19 Temporary authorization may be granted to allow the Department to  
20 investigate the activities and standards of care of the applicant.  
21 The Department may issue a license once it is satisfied that the  
22 applicant meets the requirements as provided in Sections 401 through  
23 418 of this title. All licenses shall be in force unless revoked as  
24 authorized by Section 407 of this title.

1 SECTION 7. AMENDATORY 10 O.S. 2011, Section 405.1, is  
2 amended to read as follows:

3 Section 405.1 A. The State Department of ~~Human Services~~  
4 Education shall collaborate with other appropriate agencies to  
5 develop a comprehensive Oklahoma state plan for child care.

6 B. The comprehensive plan shall:

7 1. Meet all requirements for child care state plans as  
8 periodically determined by the United States Department of Health  
9 and Human Services Administration for Children and Families Child  
10 Care Bureau; and

11 2. Be submitted to the Speaker of the Oklahoma House of  
12 Representatives and the President Pro Tempore of the Senate on a  
13 biannual basis.

14 SECTION 8. AMENDATORY 10 O.S. 2011, Section 405.2, is  
15 amended to read as follows:

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

20 1. The name, address, and phone number of all child care  
21 centers licensed by the Department ~~of Human Services~~, and the name,  
22 address, and phone number of all child care homes licensed by the  
23 Department; and

24

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

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

7           SECTION 9.           AMENDATORY           10 O.S. 2011, Section 405.3, is  
8 amended to read as follows:

9           Section 405.3 A. On or before July 1, ~~2010~~ 2013, the  
10 ~~Commission for Human Services~~ State Department of Education shall  
11 promulgate rules to establish and maintain the Child Care Restricted  
12 Registry, accessible to the public through an online database, to  
13 address:

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

16           a. a finding of abuse or neglect, as defined in Section  
17           1-1-105 of Title 10A of the Oklahoma Statutes, by an  
18           individual when the abuse or neglect occurred to  
19           children while in the care of a child care facility  
20           licensed by the Department,

21           b. a revocation or denial of a child care facility  
22           license, and  
23  
24

1 c. a specified criminal history of an individual, as  
2 defined by rules promulgated by the ~~Oklahoma~~  
3 ~~Commission for Human Services~~ Department;

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

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

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

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

13 1. The full name of the individual;

14 2. Information necessary to identify the individual; and

15 3. The date the individual was recorded on the restricted  
16 registry.

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

19 Section 406. A. The State Department of ~~Human Services~~  
20 Education shall have authority at any reasonable time to investigate  
21 and examine the conditions of any child care facility in which a  
22 licensee or applicant hereunder receives and maintains children, and  
23 shall have authority at any time to require the facility to provide  
24 information pertaining to children in its care.

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

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

9 C. 1. Upon receipt of a complaint against any child care  
10 facility alleging a violation of the provisions of the Oklahoma  
11 Child Care Facilities Licensing Act, or any licensing standard  
12 promulgated by the ~~Commission for Human Services~~ State Department of  
13 Education, the Department shall conduct a full investigation. If  
14 upon investigation, it is determined that there are reasonable  
15 grounds to believe that a facility is in violation of the Oklahoma  
16 Child Care Facilities Licensing Act or of any standard or rule  
17 promulgated pursuant thereto, the Department shall:

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

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

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

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

19           D. Upon the completion of the investigation of a complaint  
20 against any child care facility alleging a violation of the  
21 provisions of the Oklahoma Child Care Facilities Licensing Act or  
22 any licensing standard promulgated thereto by the ~~Commission~~  
23 Department, the Department shall clearly designate its findings on  
24 the first page of the report of the investigation. The findings



1 shall state whether the complaint was substantiated or  
2 unsubstantiated.

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

14 SECTION 11. AMENDATORY 10 O.S. 2011, Section 406.1, is  
15 amended to read as follows:

16 Section 406.1 A. If an Indian tribe in this state that  
17 operates a child care facility elects to apply for a license for the  
18 facility pursuant to the Oklahoma Child Care Facilities Licensing  
19 Act, the State Department of ~~Human Services~~ Education, the State  
20 Department of Health, and the State Fire Marshal may enter into an  
21 agreement with the Indian tribe to allow the state to conduct any  
22 inspections of the facility necessary to comply with the licensing  
23 provisions of the Oklahoma Child Care Facilities Licensing Act.

24

1 B. As part of the agreement authorizing the state to conduct  
2 inspections as provided in this section, the state and the Indian  
3 tribe may agree to a payment of a fee by the Indian tribe to the  
4 state in an amount not to exceed the reasonable cost to the state to  
5 conduct the inspections.

6 SECTION 12. AMENDATORY 10 O.S. 2011, Section 407, is  
7 amended to read as follows:

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

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

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

23 3. If the revocation or denial is protested within thirty (30)  
24 days of receipt of notice, by writing addressed to the ~~Commission~~

1 ~~for Human Services~~ Department, the ~~Commission~~ Department, or its  
2 authorized agency, shall conduct a hearing at which an opportunity  
3 shall be given to the licensee or applicant to present testimony and  
4 confront witnesses.

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

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

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

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

17 3. Whenever the Department finds, after an investigation, that  
18 an emergency exists requiring immediate action to protect the  
19 health, safety, or welfare of any child cared for by a facility  
20 licensed, authorized, or providing unlicensed care except as  
21 exempted by the provisions of the Oklahoma Child Care Facilities  
22 Licensing Act, the Department may without notice or hearing issue an  
23 emergency order stating the existence of such an emergency and  
24 requiring that such action be taken as it deems necessary to meet

1 the emergency including, when necessary, removing children from the  
2 facility and prohibiting the facility from providing services to  
3 children pending a hearing on the matter.

4 a. An emergency order shall be effective immediately.

5 Any person to whom an emergency order is directed  
6 shall comply with the emergency order immediately but,  
7 upon written request to the Department on or before  
8 the tenth day after receipt of the emergency order,  
9 shall be afforded a hearing on or before the tenth day  
10 after receipt of the request by the Department.

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

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

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

23 E. The Department shall continue to monitor any facility whose  
24 license has been revoked, denied, or who has had an emergency order

1 issued for a period of thirty (30) days after the action becomes  
2 final.

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

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

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

18 SECTION 13. AMENDATORY 10 O.S. 2011, Section 408, is  
19 amended to read as follows:

20 Section 408. A. Any licensee or applicant aggrieved by the  
21 decision of the State Department of ~~Human Services~~ Education under  
22 Section 407 of this title may, within ten (10) days after the  
23 revocation or denial of the license, appeal to the district court of  
24 the county in which the child care facility is maintained and

1 operated by filing with the clerk of the court a verified petition.  
2 Notice of such appeal shall be served on the ~~Director~~ Superintendent  
3 of the Department within five (5) days of the date of its filing.

4 B. The licensee or applicant shall, within twenty (20) days of  
5 the filing of the appeal, file with the clerk of such court a  
6 transcript of the proceedings held pursuant to Section 407 of this  
7 title. The district court shall thereupon be vested with  
8 jurisdiction to review the proceedings of the Department; provided  
9 that, if the Department prevails, the judgment of the district court  
10 shall be that the decision of the Department be affirmed, and if the  
11 licensee or applicant prevails, the judgment of the court shall be  
12 that the revocation be set aside or the license issued or renewed,  
13 as the case may be. Pending the hearing of the appeal, the action  
14 of the Department revoking or denying the license or the granting  
15 thereof shall be stayed; provided, after the filing of an appeal,  
16 the district court, upon application by the Department and after an  
17 appropriate hearing, may grant a restraining order to enforce the  
18 decision of the Department.

19 SECTION 14. AMENDATORY 10 O.S. 2011, Section 410.1, is  
20 amended to read as follows:

21 Section 410.1 There is established in the State Treasury a  
22 revolving fund to be known as the "Quality of Care Development  
23 Fund". The fund shall be a continuing fund, not subject to fiscal  
24 year limitations, and shall consist of all fines collected by the

1 State Department of ~~Human Services~~ Education pursuant to Section 407  
2 of ~~Title 10 of the Oklahoma Statutes~~ this title and shall, in  
3 addition to any other monies made available for such purpose, be  
4 available to the Director solely to support the continued  
5 improvement of the child care facilities in this state.  
6 Expenditures from the fund shall be made upon warrants issued by the  
7 State Treasurer against claims filed as prescribed by law with the  
8 Director of the Office of State Finance for approval and payment.

9 SECTION 15. AMENDATORY 10 O.S. 2011, Section 412, is  
10 amended to read as follows:

11 Section 412. A. The immunizations required by this act, and  
12 the manner and frequency of their administration, as prescribed by  
13 the State Board of Health, shall conform to recognized standard  
14 medical practices in this state. The State Department of Health  
15 shall supervise and secure the enforcement of the required  
16 immunization program.

17 B. The State Department of ~~Human Services~~ Education shall  
18 render reasonable assistance to the State Department of Health in  
19 the enforcement of the provisions of this act. This assistance  
20 shall be in the form of revocation or denial of the license of any  
21 facility not in compliance with this act.

22 SECTION 16. This act shall become effective November 1, 2012.  
23

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