

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 57th Legislature (2019)

4 COMMITTEE SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 1287

By: **Pae** and Lawson of the House

and

Boren of the Senate

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10 COMMITTEE SUBSTITUTE

11 An Act relating to child care; amending 10 O.S. 2011,
12 Section 406, as last amended by Section 2, Chapter
13 73, O.S.L. 2018 (10 O.S. Supp. 2018, Section 406),
14 which relates to investigations; requiring Department
15 of Human Services to complete investigation within
16 forty-five days; providing exceptions; and providing
17 an effective date.

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

19 SECTION 1. AMENDATORY 10 O.S. 2011, Section 406, as last
20 amended by Section 2, Chapter 73, O.S.L. 2018 (10 O.S. Supp. 2018,
21 Section 406), is amended to read as follows:

22 Section 406. A. The Department of Human Services shall have
23 authority at any reasonable time to investigate and examine the
24 conditions of any child care facility in which a licensee or
 applicant hereunder receives and maintains children, and shall have

1 authority at any time to require the facility to provide information
2 pertaining to children in its care.

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

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

11 C. 1. Upon receipt of a complaint against any child care
12 facility alleging a violation of the provisions of the Oklahoma
13 Child Care Facilities Licensing Act, or any licensing standard
14 promulgated by the Department, the Department shall conduct a full
15 investigation. The Department shall complete the investigation
16 within forty-five (45) days unless the complaint involves alleged
17 child abuse or neglect, law enforcement, child welfare or any other
18 extenuating circumstances as determined by the Department. If upon
19 investigation, it is determined that there are reasonable grounds to
20 believe that a facility is in violation of the Oklahoma Child Care
21 Facilities Licensing Act or of any standard or rule promulgated
22 pursuant thereto, the Department shall:

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

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

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

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

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

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

19 F. The Department shall promulgate rules to establish and
20 maintain a grievance process that shall include an anonymous
21 complaint system for reporting and investigating complaints or
22 grievances about employees of the Department who retaliate against a
23 child care facility or facility employee.

SECTION 2. This act shall become effective November 1, 2019.

COMMITTEE REPORT BY: COMMITTEE ON CHILDREN, YOUTH AND FAMILY
SERVICES, dated 02/28/2019 - DO PASS, As Amended and Coauthored.