

1 STATE OF OKLAHOMA

2 1st Session of the 59th Legislature (2023)

3 HOUSE BILL 1439

By: Vancuren

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6 AS INTRODUCED

7 An Act relating to children; amending 10 O.S. 2021,  
8 Section 406, which relates to investigations;  
9 requiring Department of Human Services to complete  
10 investigation within thirty days; providing  
11 exceptions; specifying who may be interviewed during  
investigations; specifying who may be held  
responsible for certain violations; directing that  
certain complaints be deemed complete; and providing  
an effective date.

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

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

17 Section 406. A. 1. Except as provided in paragraph 2 of this  
18 subsection, the Department of Human Services shall have authority at  
19 any reasonable time to investigate and examine the conditions of any  
20 child care facility in which a licensee or applicant hereunder  
21 receives and maintains children, and shall have authority at any  
22 time to require the facility to provide information pertaining to  
23 children in its care.

1           2. When the Department of Human Services is reviewing the star  
2 rating of a child care program with a capacity of fifty or more, the  
3 comprehensive visit to inspect and examine the program shall be  
4 scheduled with the administration of the program at least one (1)  
5 week in advance of the visit, if requested by the child care  
6 facility.

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

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

15           C. 1. Upon receipt of a complaint against any child care  
16 facility alleging a violation of the provisions of the Oklahoma  
17 Child Care Facilities Licensing Act, or any licensing standard  
18 promulgated by the Department, the Department shall conduct a full  
19 investigation. The Department shall complete the investigation  
20 within thirty (30) days unless the complaint involves alleged child  
21 abuse or neglect, law enforcement, child welfare or any other  
22 extenuating circumstances as determined by the Department. The  
23 Department shall only interview individuals directly involved with  
24 the complaint. If upon investigation, it is determined that there

1 are reasonable grounds to believe that a facility is in violation of  
2 the Oklahoma Child Care Facilities Licensing Act or of any standard  
3 or rule promulgated pursuant thereto, the Department shall:

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

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

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

21 4. If the facility refuses to correct a violation or fails to  
22 complete the plan of correction, the Department may issue an  
23 emergency order, revoke the license, or deny the application for a  
24 license. Nothing in this section or Section 407 of this title shall

1 be construed as preventing the Department from denying an  
2 application, revoking a license, or issuing an emergency order for a  
3 single violation of this act, or the rules of the Department as  
4 provided in Section 404 of this title.

5 5. If the Department determines there has been a substantiated  
6 finding of heinous and shocking abuse by a person responsible for a  
7 child's health, safety or welfare, as those terms are defined in  
8 Section 1-1-105 of Title 10A of the Oklahoma Statutes, the  
9 Department shall notify the child care facility owner or operator  
10 and the child care resource and referral organization in writing  
11 immediately or not later than one (1) business day after the  
12 substantiated finding. Upon receiving notice of a substantiated  
13 finding, the facility owner or operator shall attempt to immediately  
14 notify, but not later than seventy-two (72) hours after receiving  
15 notice of the substantiated finding, parents or legal guardians of  
16 children attending the facility by certified mail.

17 6. If the Department determines there has been a violation and  
18 the violation involves alleged child abuse or neglect, law  
19 enforcement, child welfare or any other extenuating circumstances as  
20 determined by the Department, the person involved in the commission  
21 of the violation shall be held responsible, and the licensee may be  
22 held responsible.

23 D. Upon the completion of the investigation of a complaint  
24 against any child care facility alleging a violation of the

1 provisions of the Oklahoma Child Care Facilities Licensing Act or  
2 any licensing standard promulgated thereto by the Department, the  
3 Department shall clearly designate its findings on the first page of  
4 the report of the investigation. The findings shall state whether  
5 the complaint was substantiated or unsubstantiated. Any complaint  
6 that was unsubstantiated or that resulted in a facility correcting a  
7 violation or completing a plan of correction shall be deemed  
8 complete.

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

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

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SECTION 2. This act shall become effective November 1, 2023.

59-1-5816 CMA 01/10/23