

1 STATE OF OKLAHOMA

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

3 SENATE BILL 233

By: Coleman

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6 AS INTRODUCED

7 An Act relating to child care; amending 10 O.S. 2021,
8 Section 406, which relates to investigations;
9 modifying procedures relating to complaints;
10 requiring the Department of Human Services to request
11 certain information from complainant; limiting
12 investigative authority of the Department; updating
13 statutory language; and providing an effective date.

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.

24 2. When the Department of Human Services is reviewing the star
25 rating of a child care program with a capacity of fifty or more, the

1 comprehensive visit to inspect and examine the program shall be
2 scheduled with the administration of the program at least one (1)
3 week in advance of the visit, if requested by the child care
4 facility.

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

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

13 C. 1. a. Upon receipt of a complaint against any child care
14 facility alleging a violation of the provisions of the
15 Oklahoma Child Care Facilities Licensing Act, or any
16 licensing standard promulgated by the Director of the
17 Department, the Department shall request that the
18 complainant provide the complainant's name and contact
19 information.

20 b. If the complaint alleges a violation that poses a
21 potential risk to the health, safety, or well-being of
22 one or more of the children cared for by the facility,
23 the Department shall immediately conduct a full
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1 investigation regardless of whether the complainant
2 provides his or her name and contact information.

3 c. If the complaint alleges a violation that does not
4 pose a potential risk to the health, safety, or well-
5 being of one or more of the children cared for by the
6 facility, the Department:

7 (1) shall conduct a full investigation if the
8 complainant provides his or her name and contact
9 information, or

10 (2) shall not conduct an investigation if the
11 complainant does not provide his or her name and
12 contact information.

13 2. If upon investigation, it is determined that there are
14 reasonable grounds to believe that a facility is in violation of the
15 Oklahoma Child Care Facilities Licensing Act or of any standard or
16 rule promulgated pursuant thereto, the Department shall:

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

1 ~~2.~~ 3. If the Department determines there has been a violation
2 and 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.~~ 4. 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.~~ 5. If the facility refuses to correct a violation or fails
12 to 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 Department~~
18 promulgated by the Director as provided in Section 404 of this
19 title.

20 ~~5.~~ 6. If the Department determines there has been a
21 substantiated finding of heinous and shocking abuse by a person
22 responsible for a child's health, safety or welfare, as those terms
23 are defined in Section 1-1-105 of Title 10A of the Oklahoma
24 Statutes, the Department shall notify the child care facility owner

1 or operator and the child care resource and referral organization in
2 writing immediately or not later than one (1) business day after the
3 substantiated finding. Upon receiving notice of a substantiated
4 finding, the facility owner or operator shall attempt to immediately
5 notify, but not later than seventy-two (72) hours after receiving
6 notice of the substantiated finding, parents or legal guardians of
7 children attending the facility by certified mail.

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

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

3 F. The ~~Department~~ Director shall promulgate rules to establish
4 and maintain a grievance process that shall include an anonymous
5 complaint system for reporting and investigating complaints or
6 grievances about employees of the Department who retaliate against a
7 child care facility or facility employee.

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

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