

**10 Okl.St. Ann. Ch. 18, Refs & Annos**

**10 Okl.St. Ann. § 401**

**§ 401. Purpose and policy of law--Minimum standards**

A. Sections 401 through 418 of this title shall be known and may be cited as the “Oklahoma Child Care Facilities Licensing Act”.

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

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

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

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

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

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

**10 Okl.St. Ann. § 402**

**§ 402. Definitions**

As used in the Oklahoma Child Care Facilities Licensing Act:

1. “Adult” means an individual eighteen (18) years of age or older;

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2. “Child” or “minor” means any person who has not attained the age of eighteen (18) years;

3. “Child care center” means a program that operates 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 program, out-of-school time program, 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 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. “Department” means the Department of Human Services;

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

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;

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

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;

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13. "Part-day child care program" means a 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 a notification from the Oklahoma State Bureau of Investigation 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;

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.

**10 Okl.St.Ann. § 403**

**§ 403. Exemptions from application of act**

**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. Care provided by an attorney-in-fact authorized by Section 1 of this act who exercises parental or legal authority on a continuous basis for not less than twenty-four (24) hours and without compensation for the intended duration of the power of attorney;**

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

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

6. 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;

7. 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;

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

9. 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;

10. 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;

11. Facilities whose primary purpose is medical treatment;

12. 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

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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;

13. Day treatment programs and maternity homes operated by a licensed hospital;

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

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

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

17. 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.

**10 Okl.St. Ann. § 404**

**§ 404. Minimum requirements and desirable standards**

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 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.

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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 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 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 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.

10 Okl.St. Ann. § 404.1

§ 404.1. Child care facility permit or license--Criminal history records search--Foster parent eligibility

A. On and after November 1, 2013:

1. Prior to the issuance of a permit or license, owners and responsible entities making 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,

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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 an individual:

a. an Oklahoma State 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,

c. a national criminal history records search pursuant to paragraph 10 of this subsection shall be submitted,

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

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submitted to the Department,

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 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,

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 Courts Network search conducted by the Department,



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- b. a Child Care Restricted Registry search conducted by the facility with notification of the search submitted to the Department,
  - 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 or access to fingerprint results, owners, responsible entities, directors, and other individuals who have review of 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 volunteers who transport children on an irregular basis when a release is signed by the parent or legal guardian noting their understanding that the volunteer does not have a completed national criminal history records search. 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,

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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;

11. The 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.

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 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,

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(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 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 Department or by law.

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3. 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.

C. The 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.

D. Except as otherwise provided by the Oklahoma Children's Code<sup>1</sup> and subsection 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.

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

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.

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:

- a. an emergency order,
- b. license revocation or denial,
- c. injunctive proceedings,

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- d. an administrative penalty not to exceed Ten Thousand Dollars (\$10,000.00), and
- e. referral for criminal proceedings.

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

**10 Okl.St. Ann. § 404.2**

**§ 404.2. Demarion's Law--Short title**

This act<sup>1</sup> shall be known and may be cited as "Demarion's Law".

**10 Okl.St. Ann. § 404.3**

**§ 404.3. Demarion's Law--Mandatory liability insurance for facilities**

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.

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D. The 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 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.

**10 Okl.St. Ann. § 405**

**§ 405. Necessity and issuance of license--Temporary authorization**

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; No<sup>1</sup> 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

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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.

**10 Okl.St. Ann. § 405.1**

**§ 405.1. Comprehensive state plan for child care facilities--Federal requirements--Submission to legislature**

A. The Department of Human Services shall collaborate with other appropriate agencies to develop a comprehensive Oklahoma state plan for child care.

B. The comprehensive plan shall:

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

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

**10 Okl.St. Ann. § 405.2**

**§ 405.2. Online child care database**

A. The 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:

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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 Department.

**10 Okl.St. Ann. § 405.3**

**§ 405.3. Online Child Care Restricted Registry**

A. On or before July 1, 2010, the 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 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.

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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.

**10 Okl.St. Ann. § 406**

**§ 406. Investigations--Notice of violation--Confidentiality**

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 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.

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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,<sup>1</sup> or the rules of the 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 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.

10 Okl.St. Ann. § 406.1

§ 406.1. Indian tribe-operated child care facility--Inspection agreement

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

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

Current with emergency effective provisions through Chapter 430 (End) of the Second Regular Session of the 54th Legislature (2014).

10 Okl.St. Ann. § 407

§ 407. Revocation of license or refusal to issue or renew--Emergency action--Citation

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 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 Department, the 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.

Current with emergency effective provisions through Chapter 430 (End) of the Second Regular Session of the 54th Legislature (2014).

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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 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 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.

**10 Okl.St. Ann. § 408**

**§ 408. Appeals**

A. Any licensee or applicant aggrieved by the decision of the Department of Human Services under Section 407 of Current with emergency effective provisions through Chapter 430 (End) of the Second Regular Session of the 54th Legislature (2014).

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this title may, within ten (10) days after the revocation or denial of the license, appeal to the district court of the county in which the child care facility is maintained and operated by filing with the clerk of the court a verified petition. Notice of such appeal shall be served on the Director of the Department within five (5) days of the date of its filing.

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

### 10 Okl.St. Ann. § 409

#### § 409. Injunction

Any person or child care facility may be enjoined from maintaining and operating such facility for violations of any provisions of this act<sup>1</sup> by suit brought in the name of the state by the Attorney General of Oklahoma or by a district attorney.

### 10 Okl.St. Ann. § 410

#### § 410. Violations--Punishment

Any person or agent, representative, or officer of any child care facility who violates any of the provisions of the Oklahoma Child Care Facilities Licensing Act shall, upon conviction, be deemed guilty of a misdemeanor and punished in accordance with the provisions of Section 10 of Title 21 of the Oklahoma Statutes. Whenever any agent, representative, or officer of any child care facility shall be convicted under authority of this act, such conviction shall be sufficient ground for the revocation of the entity's license.

### 10 Okl.St. Ann. § 410.1

#### § 410.1. Quality of Care Development Fund

There is established in the State Treasury a revolving fund to be known as the "Quality of Care Development Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all fines collected by the Department of Human Services pursuant to Section 407 of this title and shall, in addition to any other monies made available for such purpose, be available to the Director solely to support the continued improvement of the child care facilities in this state. Expenditures from the fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment.

### 10 Okl.St. Ann. § 411

Current with emergency effective provisions through Chapter 430 (End) of the Second Regular Session of the 54th Legislature (2014).

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**§ 411. Certificate of immunization as condition for admission to day care facility--Alteration of list of required immunizations**

A. No person, firm, corporation, partnership or other legal entity operating a day care center or day care home in this state shall cause or permit a minor child two (2) months of age or older to be admitted to such facility unless and until the parent, guardian, or other related person of such child presents certification from a licensed physician or authorized representative of any state or local department of public health that such child has received or will receive immunization at the medically appropriate time against diphtheria, pertussis, tetanus, haemophilus influenzae type B (HIB), measles (rubeola), rubella, hepatitis A, varicella, and poliomyelitis; or presents such certification that the child is likely to be immune as a result of the disease. Provided, however, that in the event the parent, guardian, or other person presenting a child for admission to a day care center or day care home certifies in writing that a family emergency exists, the requirement imposed by this section may be waived for a period not to exceed thirty (30) days. Such certification shall be made prior to the provision of care. No such waiver shall be knowingly permitted more than once for any child.

B. The State Board of Health, by rule, may alter the list of immunizations required under this section after notice and hearing. Any change in the list of immunizations required shall be submitted to the next regular session of the Legislature and such change shall remain in force and effect unless and until a concurrent resolution of disapproval is passed. Hearings shall be conducted by the State Board of Health, or such officer, agents or employees as the State Board of Health may designate for that purpose. The State Board of Health shall give appropriate notice of the proposed change in the list of immunizations required and of the time and place for hearing. The change shall become effective on a date fixed by the State Board of Health. Any change in the list of immunizations required may be amended or repealed in the same manner as provided for its adoption. Proceedings pursuant to this subsection shall be governed by the Administrative Procedures Act.<sup>1</sup>

**10 Okl.St. Ann. § 412**

**§ 412. Manner and frequency of immunizations--Enforcement of act**

A. The immunizations required by this act,<sup>1</sup> and the manner and frequency of their administration, as prescribed by the State Board of Health, shall conform to recognized standard medical practices in this state. The State Department of Health shall supervise and secure the enforcement of the required immunization program.

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

**10 Okl.St. Ann. § 413**

**§ 413. Exemptions**

Any minor child, through his or her parent or guardian, may submit to the health authority charged with the enforcement of the immunization laws, a certificate of a licensed physician stating that the physical condition of the child is such that immunization would endanger the life or health of the child; or upon receipt of a written statement Current with emergency effective provisions through Chapter 430 (End) of the Second Regular Session of the 54th Legislature (2014).

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by the parent or guardian objecting to such immunizations because of religious or other reasons, then such child shall be exempt from the provisions of this act.<sup>1</sup>

10 Okl.St. Ann. § 414

§ 414. Administration of immunizations--Persons eligible--Indigent persons

The immunizations shall be administered by, or under the direction of, a licensed physician, or by any local or State Health Department. If the parent or guardian is unable to pay, the State Department of Health shall provide, without charge, the immunization materials required by this act.<sup>1</sup>

10 Okl.St. Ann. § 415

§ 415. Child with reportable contagious disease to be excluded from day care facility

Any child afflicted with a reportable contagious disease shall be excluded from attending a day care center or day care home until such time as the period of communicability has elapsed as determined by a licensed physician or health department official. Such exclusion shall be reported to a local health department official.

10 Okl.St. Ann. § 416

§§ 416, 417. Repealed by Laws 1993, c. 122, § 9, emerg. eff. April 29, 1993

10 Okl.St. Ann. § 417

§§ 416, 417. Repealed by Laws 1993, c. 122, § 9, emerg. eff. April 29, 1993

10 Okl.St. Ann. § 418

§ 418. Authority to obtain evidence--Administration of oaths

When conducting investigations of complaints as provided in this article,<sup>1</sup> the Department of Public Welfare shall have the power to summon any person to appear and produce such books and papers as shall be designated in the summons, and to give testimony under oath concerning the matter and institution under investigation. The Department shall have the power to administer oaths to such persons as may be summoned and to enforce all such powers as are given to notaries public when they are taking depositions.

10 Okl.St. Ann. § 419

§ 419. Repealed by Laws 2009, c. 230, § 9, emerg. eff. May 21, 2009.

10 Okl.St. Ann. § 430

§ 430. Repealed by Laws 2009, c. 230, § 10, eff. May 21, 2009.