

1 STATE OF OKLAHOMA

2 1st Session of the 58th Legislature (2021)

3 HOUSE BILL 1089

By: Talley

4
5
6 AS INTRODUCED

7 An Act relating to child care; amending 10 O.S. 2011,
8 Section 407, as amended by Section 10, Chapter 308,
9 O.S.L. 2013 (10 O.S. Supp. 2020, Section 407), which
10 relates to licensing revocation or denial; requiring
11 appointment of administrative law judge; specifying
12 who will conduct emergency order hearing; decreasing
13 amount of time for emergency order hearing; updating
14 statutory references; and providing an effective
15 date.

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

17 SECTION 1. AMENDATORY 10 O.S. 2011, Section 407, as
18 amended by Section 10, Chapter 308, O.S.L. 2013 (10 O.S. Supp. 2020,
19 Section 407), is amended to read as follows:

20 Section 407. A. The Department of Human Services may revoke or
21 deny issuance of the license of any child care facility found to be
22 in violation of any provision of ~~this act~~ the Oklahoma Child Care
23 Facilities Licensing Act or the rules of the Department, as provided
24 in Section 404 of this title.

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

5 2. At the time the facility licensee or applicant is given
6 notice in writing of the revocation or denial of a license, the
7 Department shall also advise parents of children attending the
8 facility and the child care resource and referral organization
9 within one (1) business day of such action by verbal, electronic, or
10 written notification and the posting of an announcement in the
11 facility.

12 3. If the revocation or denial is protested in writing
13 addressed to the Department within thirty (30) days of receipt of
14 notice, ~~by writing addressed to the Department,~~ the Department, or
15 its authorized agency, shall appoint an administrative law judge to
16 conduct a hearing at which an opportunity shall be given to the
17 licensee or applicant to present testimony and confront witnesses.

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

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

24

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

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

7 3. Whenever the Department finds, after an investigation, that
8 an emergency exists requiring immediate action to protect the
9 health, safety, or welfare of any child cared for by a facility
10 licensed, authorized, or providing unlicensed care except as
11 exempted by the provisions of the Oklahoma Child Care Facilities
12 Licensing Act, the Department may without notice or hearing issue an
13 emergency order stating the existence of such an emergency and
14 requiring that such action be taken as it deems necessary to meet
15 the emergency including, when necessary, removing children from the
16 facility and prohibiting the facility from providing services to
17 children pending a hearing on the matter.

18 a. An emergency order shall be effective immediately.

19 Any person to whom an emergency order is directed
20 shall comply with the emergency order immediately but,
21 upon written request to the Department on or before
22 the tenth day after receipt of the emergency order,
23 shall be afforded a hearing ~~on or before the tenth day~~

1 an administrative law judge within three (3) business
2 days after receipt of the request by the Department.

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

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

11 D. The Department shall establish a process to review the
12 initial determination of the closure of a facility due to an
13 emergency order pursuant to the licensing requirements promulgated
14 by the Department.

15 E. The Department shall continue to monitor any facility whose
16 license has been revoked, denied, or who has had an emergency order
17 issued for a period of thirty (30) days after the action becomes
18 final.

19 F. In addition to any other remedy authorized by ~~this act~~ the
20 Oklahoma Child Care Facilities Licensing Act, a ~~CLEET-certified~~ an
21 officer certified by the Council on Law Enforcement Education and
22 Training (CLEET) may issue a citation for a violation of any
23 provision of ~~this act~~ the Oklahoma Child Care Facilities Licensing
24 Act or rules of the Department as provided in Section 404 of this

1 title. The fine shall not be less than One Hundred Dollars
2 (\$100.00) nor more than Five Hundred Dollars (\$500.00) for every day
3 the facility maintains and receives children after:

- 4 1. An emergency order has been issued; or
- 5 2. An application for a license has been denied or the license
6 has been revoked.

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

12 SECTION 2. This act shall become effective November 1, 2021.

13

14 58-1-5157 EK 12/11/20

15

16

17

18

19

20

21

22

23

24