

1 STATE OF OKLAHOMA

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

3 HOUSE BILL 1791

By: Pae

4
5
6 AS INTRODUCED

7 An Act relating to children; amending 10 O.S. 2011,
8 Section 406, as last amended by Section 1, Chapter
9 368, O.S.L. 2019 (10 O.S. Supp. 2020, Section 406),
10 which relates to investigations; requiring Department
11 of Human Services to complete investigation within
12 thirty days; providing exceptions; specifying who may
13 be interviewed during investigations; specifying who
14 may be held responsible for certain violations;
15 directing that certain complaints be deemed resolved
16 and complete; and providing an effective date.

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

18 SECTION 1. AMENDATORY 10 O.S. 2011, Section 406, as last
19 amended by Section 1, Chapter 368, O.S.L. 2019 (10 O.S. Supp. 2020,
20 Section 406), is amended to read as follows:

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

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

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

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

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

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

1 Department shall only interview individuals directly involved with
2 the complaint. If upon investigation, it is determined that there
3 are reasonable grounds to believe that a facility is in violation of
4 the Oklahoma Child Care Facilities Licensing Act or of any standard
5 or rule promulgated pursuant thereto, the Department shall:

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

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

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

23 4. If the facility refuses to correct a violation or fails to
24 complete the plan of correction, the Department may issue an

1 emergency order, revoke the license, or deny the application for a
2 license. Nothing in this section or Section 407 of this title shall
3 be construed as preventing the Department from denying an
4 application, revoking a license, or issuing an emergency order for a
5 single violation of this act, or the rules of the Department as
6 provided in Section 404 of this title.

7 5. If the Department determines there has been a violation and
8 the violation involves alleged child abuse or neglect, law
9 enforcement, child welfare or any other extenuating circumstances as
10 determined by the Department, only the person involved in the
11 commission of the violation shall be held responsible.

12 D. Upon the completion of the investigation of a complaint
13 against any child care facility alleging a violation of the
14 provisions of the Oklahoma Child Care Facilities Licensing Act or
15 any licensing standard promulgated thereto by the Department, the
16 Department shall clearly designate its findings on the first page of
17 the report of the investigation. The findings shall state whether
18 the complaint was substantiated or unsubstantiated. Any complaint
19 that was unsubstantiated or that resulted in a facility correcting a
20 violation or completing a plan of correction shall be deemed
21 resolved and complete.

22 E. Information obtained by the Department or Oklahoma Child
23 Care Services concerning a report of a violation of a licensing
24 requirement, or from any licensee regarding children or their

1 parents or other relatives shall be deemed confidential and
2 privileged communications, shall be properly safeguarded, and shall
3 not be accessible to anyone except as herein provided, unless upon
4 order of a court of competent jurisdiction. Provided, however, this
5 provision shall not prohibit the Department from providing a summary
6 of allegations and findings of an investigation involving a child
7 care facility that does not disclose identities but that permits
8 parents to evaluate the facility.

9 F. The Department shall promulgate rules to establish and
10 maintain a grievance process that shall include an anonymous
11 complaint system for reporting and investigating complaints or
12 grievances about employees of the Department who retaliate against a
13 child care facility or facility employee.

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

15

16 58-1-6620 CMA 01/05/21

17

18

19

20

21

22

23

24