HOUSE OF REPRESENTATIVES – FLOOR VERSION

STATE OF OKLAHOMA

1st Session of the 57th Legislature (2019)

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 1288
By: Talley and Lawson

COMMITTEE SUBSTITUTE

An Act relating to child care; amending 10 O.S. 2011, Sections 405.2, as amended by Section 7, Chapter 308, O.S.L. 2013 and 407, as amended by Section 10, Chapter 308, O.S.L. 2013 (10 O.S. Supp. 2018, Sections 405.2 and 407), which relate to the Oklahoma Child Care Facilities Licensing Act; modifying information to be included in certain online database; prohibiting inclusion of certain licensee address; providing exception for nonpublic database for law enforcement purposes; directing appointment of administrative law judge; requiring hearing for protest of a license revocation or denial within a specified amount of time; specifying who will conduct emergency order hearing; decreasing amount of time for emergency order hearing; and providing an effective date.

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

SECTION 1. AMENDATORY 10 O.S. 2011, Section 405.2, as amended by Section 7, Chapter 308, O.S.L. 2013 (10 O.S. Supp. 2018, Section 405.2), is amended to read as follows:

Section 405.2 A. Except as provided in subsection C of this section, 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:

1. The name, **address city**, and phone number of all child care centers licensed by the Department of Human Services, and the name, **address city**, 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.

C. The online database maintained by the Department and accessible to the public shall not include the address of any family child care home licensed by the Department. Nothing in this subsection shall prohibit the Department from providing a separate, nonpublic online database that is only accessible for law enforcement purposes.

SECTION 2. AMENDATORY 10 O.S. 2011, Section 407, as amended by Section 10, Chapter 308, O.S.L. 2013 (10 O.S. Supp. 2018, Section 407), is amended to read as follows:

Section 407. 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 appoint an administrative law judge to conduct a hearing within thirty (30) days upon receipt of the protest 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.

   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 before an administrative law judge within seventy-two (72) hours 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 certified by the Council on Law Enforcement Education and Training (CLEET) 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 10.410.1 of this act title
and one-half (1/2) shall be retained by the law enforcement agency
represented by the CLEET-certified officer.

SECTION 3. This act shall become effective November 1, 2019.

COMMITTEE REPORT BY: COMMITTEE ON CHILDREN, YOUTH AND FAMILY
SERVICES, dated 02/28/2019 - DO PASS, As Amended and Coauthored.