

1 STATE OF OKLAHOMA

2 1st Session of the 56th Legislature (2017)

3 HOUSE BILL 1618

By: Munson

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5
6 AS INTRODUCED

7 An Act relating to children; amending 10 O.S. 2011,
8 Section 404.1, as last amended by Section 1, Chapter
9 307, O.S.L. 2016 (10 O.S. Supp. 2016, Section 404.1),
10 which relates to child care facilities; adding
11 requirements for child care facilities; and providing
12 an effective date.

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

14 SECTION 1. AMENDATORY 10 O.S. 2011, Section 404.1, as
15 last amended by Section 1, Chapter 307, O.S.L. 2016 (10 O.S. Supp.
16 2016, Section 404.1), is amended to read as follows:

17 Section 404.1 A. On and after November 1, 2013:

18 1. Prior to the issuance of a permit or license, owners and
19 responsible entities making a request to establish or operate a
20 child care facility shall have:

- 21 a. an Oklahoma State Courts Network search conducted by
22 the Department,
23 b. a Child Care Restricted Registry search conducted by
24 the facility,

1 c. a national criminal history records search conducted
2 pursuant to paragraph 10 of this subsection,

3 d. a criminal history records search conducted by an
4 authorized source, when the individual has lived
5 outside the United States within the last three (3)
6 years, and

7 e. a search of the Department of Corrections' files
8 maintained pursuant to the Sex Offenders Registration
9 Act and conducted by the Department of Human Services;

10 2. Prior to the employment of an individual:

11 a. an Oklahoma State Courts Network search, conducted by
12 the Department, shall be requested and received by the
13 facility; provided however, if twenty-four (24) hours
14 has passed from the time the request to the Department
15 was made, the facility may initiate employment,
16 notwithstanding the provisions of this paragraph,

17 b. a Child Care Restricted Registry search shall be
18 conducted by the facility with notification of the
19 search submitted to the Department,

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

22 d. a criminal history records search conducted by an
23 authorized source, when the individual has lived
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1 outside the United States within the last three (3)
2 years, shall be submitted to the Department, and

- 3 e. a search of the Department of Corrections' files
4 maintained pursuant to the Sex Offenders Registration
5 Act shall be conducted by the Department and received
6 by the facility;

7 3. Prior to allowing unsupervised access to children by
8 employees or individuals, including contract employees and
9 volunteers and excluding the exceptions in paragraph 8 of this
10 subsection:

- 11 a. Oklahoma State Courts Network search results,
12 conducted by the Department, shall be received by the
13 facility,
14 b. a Child Care Restricted Registry search shall be
15 conducted by the facility with notification of the
16 search submitted to the Department,
17 c. national criminal history records search results
18 pursuant to paragraph 10 of this subsection shall be
19 received by the facility,
20 d. a criminal history records search conducted by an
21 authorized source, when the individual has lived
22 outside the United States within the last three (3)
23 years shall be submitted to the Department, and
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1 e. a search of the Department of Corrections' files
2 maintained pursuant to the Sex Offenders Registration
3 Act shall be conducted by the Department and received
4 by the facility;

5 4. Prior to the issuance of a permit or license and prior to
6 the residence of adults who subsequently move into a facility,
7 adults living in the facility excluding the exception in paragraph 7
8 of this subsection shall have:

9 a. an Oklahoma State Courts Network search conducted by
10 the Department and the facility shall be in receipt of
11 the search results,

12 b. a Child Care Restricted Registry search conducted by
13 the facility with notification of the search submitted
14 to the Department,

15 c. a national criminal history records search conducted
16 pursuant to paragraph 10 of this subsection,

17 d. a criminal history records search conducted by an
18 authorized source, when the individual has lived
19 outside the United States within the last three (3)
20 years, and

21 e. a search of the Department of Corrections' files
22 maintained pursuant to the Sex Offenders Registration
23 Act conducted by the Department and received by the
24 facility;

1 5. Children who reside in the facility and turn eighteen (18)
2 years of age excluding the exception in paragraph 7 of this
3 subsection shall have:

4 a. an Oklahoma State Courts Network search conducted by
5 the Department,

6 b. a Child Care Restricted Registry search conducted by
7 the facility with notification of the search submitted
8 to the Department,

9 c. a national criminal history records search conducted
10 pursuant to paragraph 10 of this subsection, and

11 d. a search of the Department of Corrections' files
12 pursuant to the Sex Offenders Registration Act
13 conducted by the Department and received by the
14 facility;

15 6. Prior to review of or access to fingerprint results, owners,
16 responsible entities, directors, and other individuals who have
17 review of or access to fingerprint results shall have a national
18 criminal history records search pursuant to paragraph 10 of this
19 subsection;

20 7. Provisions specified in paragraphs 4 and 5 of this
21 subsection shall not apply to residents who are receiving services
22 from a residential child care facility;

23 8. A national criminal history records search pursuant to
24 paragraph 10 of this subsection shall not be required for volunteers

1 who transport children on an irregular basis when a release is
2 signed by the parent or legal guardian noting their understanding
3 that the volunteer does not have a completed national criminal
4 history records search. The provisions in paragraph 3 of this
5 subsection shall not be required for specialized service
6 professionals who are not employed by the program and have
7 unsupervised access to a child when a release is signed by the
8 parent or legal guardian noting his or her understanding of this
9 exception. These exceptions shall not preclude the Department from
10 requesting a national fingerprint or an Oklahoma State Bureau of
11 Investigation name-based criminal history records search or
12 investigating criminal, abusive, or harmful behavior of such
13 individuals, if warranted;

14 9. A national criminal history records search pursuant to
15 paragraph 10 of this subsection shall be required on or before
16 November 1, 2016, for existing owners, responsible entities,
17 employees, individuals with unsupervised access to children, and
18 adults living in the facility, as of November 1, 2013, unless
19 paragraph 6 of this subsection applies;

20 10. The Department shall require a national criminal history
21 records search based upon submission of fingerprints that shall:

22 a. be conducted by the Oklahoma State Bureau of
23 Investigation and the Federal Bureau of Investigation
24 pursuant to Section 150.9 of Title 74 of the Oklahoma

1 Statutes and the federal National Child Protection Act
2 and the federal Volunteers for Children Act with the
3 Department as the authorized agency,

4 b. be submitted and have results received between the
5 Department and the Oklahoma State Bureau of
6 Investigation through secure electronic transmissions,

7 c. include Oklahoma State Bureau of Investigation rap
8 back, requiring the Oklahoma State Bureau of
9 Investigation to immediately notify the Department
10 upon receipt of subsequent criminal history activity,
11 and

12 d. be paid by the individual or the facility;

13 11. The Director of the Department, or designee, shall
14 promulgate rules that may authorize an exception to the
15 fingerprinting requirements for individuals who have a severe
16 physical condition which precludes such individuals from being
17 fingerprinted; and

18 12. The Office of Juvenile Affairs shall require national
19 criminal history records searches, as defined by Section 150.9 of
20 Title 74 of the Oklahoma Statutes, which shall be provided by the
21 Oklahoma State Bureau of Investigation for the purpose of obtaining
22 the national criminal history records search, including Rap Back
23 notification of and through direct request by the Office of Juvenile
24 Affairs on behalf of any:

- 1 a. operator or responsible entity making a request to
2 establish or operate a secure detention center,
3 municipal juvenile facility, community intervention
4 center or secure facility licensed or certified by the
5 Office of Juvenile Affairs,
- 6 b. employee or applicant of a secure detention center,
7 municipal juvenile facility, community intervention
8 center or secure facility licensed or certified by the
9 Office of Juvenile Affairs, or
- 10 c. persons allowed unsupervised access to children,
11 including contract employees or volunteers, of a
12 secure detention center, municipal juvenile facility,
13 community intervention center or secure facility
14 licensed or certified by the Office of Juvenile
15 Affairs.

16 B. 1. a. On and after September 1, 1998:

17 (1) any child-placing agency contracting with a
18 person for foster family home services or in any
19 manner for services for the care and supervision
20 of children shall also, prior to executing a
21 contract, complete:

22 (a) a foster parent eligibility assessment for
23 the foster care provider except as otherwise
24

1 provided by divisions (2) and (4) of this
2 subparagraph, and

3 (b) a national criminal history records search
4 based upon submission of fingerprints for
5 any adult residing in the foster family home
6 through the Department of Human Services
7 pursuant to the provisions of Section 1-7-
8 106 of Title 10A of the Oklahoma Statutes,
9 except as otherwise provided by divisions
10 (2) and (4) of this subparagraph,

11 (2) the child-placing agency may place a child
12 pending completion of the national criminal
13 history records search if the foster care
14 provider and every adult residing in the foster
15 family home has resided in this state for at
16 least five (5) years immediately preceding such
17 placement,

18 (3) a national criminal history records search based
19 upon submission of fingerprints to the Oklahoma
20 State Bureau of Investigation shall also be
21 completed for any adult who subsequently moves
22 into the foster family home,

23 (4) provided, however, the Director of Human Services
24 or the Director of the Office of Juvenile

1 Affairs, or a designee, may authorize an
2 exception to the fingerprinting requirement for a
3 person residing in the home who has a severe
4 physical condition which precludes such person's
5 being fingerprinted, and

6 (5) any child care facility contracting with any
7 person for foster family home services shall
8 request the Office of Juvenile Affairs to conduct
9 a juvenile justice information system review,
10 pursuant to the provisions of Sections 2-7-905
11 and 2-7-308 of Title 10A of the Oklahoma
12 Statutes, for any child over the age of thirteen
13 (13) years residing in the foster family home,
14 other than a foster child, or who subsequently
15 moves into the foster family home. As a
16 condition of contract, the child care facility
17 shall obtain the consent of the parent or legal
18 guardian of the child for such review.

19 b. The provisions of this paragraph shall not apply to
20 foster care providers having a contract or contracting
21 with a child-placing agency, the Department of Human
22 Services or the Office of Juvenile Affairs prior to
23 September 1, 1998. Such existing foster care
24 providers shall comply with the provisions of this

1 section, until otherwise provided by rules of the
2 Department or by law.

3 2. a. (1) On and after September 1, 1998, except as
4 otherwise provided in divisions (2) and (4) of
5 this subparagraph, prior to contracting with a
6 foster family home for placement of any child who
7 is in the custody of the Department of Human
8 Services or the Office of Juvenile Affairs, each
9 Department shall complete a foster parent
10 eligibility assessment, pursuant to the
11 provisions of the Oklahoma Child Care Facilities
12 Licensing Act, for such foster family applicant.
13 In addition, except as otherwise provided by
14 divisions (2) and (4) of this subparagraph, the
15 Department shall complete a national criminal
16 history records search based upon submission of
17 fingerprints for any adult residing in such
18 foster family home.

19 (2) The Department of Human Services and Office of
20 Juvenile Affairs may place a child pending
21 completion of the national criminal history
22 records search if the foster care provider and
23 every adult residing in the foster family home
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1 has resided in this state for at least five (5)
2 years immediately preceding such placement.

3 (3) A national criminal history records search based
4 upon submission of fingerprints conducted by the
5 Oklahoma State Bureau of Investigation shall also
6 be completed for any adult who subsequently moves
7 into the foster family home.

8 (4) The Director of Human Services or the Director of
9 the Office of Juvenile Affairs or their designee
10 may authorize an exception to the fingerprinting
11 requirement for any person residing in the home
12 who has a severe physical condition which
13 precludes such person's being fingerprinted.

14 b. The provisions of this paragraph shall not apply to
15 foster care providers having a contract or contracting
16 with a child-placing agency, the Department of Human
17 Services or the Office of Juvenile Affairs prior to
18 September 1, 1998. Such existing foster care
19 providers shall comply with the provisions of this
20 section, until otherwise provided by rules of the
21 Department or by law.

22 3. The Department of Human Services or the Office of Juvenile
23 Affairs shall provide for a juvenile justice information system
24 review pursuant to Section 2-7-308 of Title 10A of the Oklahoma

1 Statutes for any child over the age of thirteen (13) years residing
2 in a foster family home, other than the foster child, or who
3 subsequently moves into the foster family home.

4 C. All licensed child care facilities shall:

5 1. Follow the most recent version of the Child and Adult Care
6 Food Program (CACFP) nutrition standards for infants and children;

7 2. Provide children with opportunities for moderate and
8 vigorous physical activity for at least sixty (60) minutes per day
9 during a full-day program or thirty (30) minutes per day for a half-
10 day program including daily outdoor time for physical activity when
11 possible, and by providing infants daily opportunities to freely
12 explore their indoor and outdoor environments under adult
13 supervision, including engaging with infants on the ground each day
14 to optimize adult-infant interactions and providing daily tummy
15 time, or time in the prone position, for infants less than six (6)
16 months of age;

17 3. Eliminate screen time, including television, movies,
18 cellular phones, video games, computers and other digital devices,
19 for children under two (2) years of age; and

20 4. Limit screen time, including television, movies, cellular
21 phones, video games, computers and other digital devices, for
22 children two (2) years of age and older to less than thirty (30)
23 minutes per day for children in half-day programs or less than one
24 (1) hour per day for those in full-day programs, except for special

1 occasions. Special occasions shall be limited to no more than
2 ninety (90) minutes once a week.

3 D. The Department or the Board of Juvenile Affairs shall
4 promulgate rules to identify circumstances when a criminal history
5 records search or foster parent eligibility assessment for an
6 applicant or contractor, or any person over the age of thirteen (13)
7 years residing in a private residence in which a child care facility
8 is located, shall be expanded beyond the records search conducted by
9 the Oklahoma State Bureau of Investigation or as otherwise provided
10 pursuant to this section.

11 ~~D.~~ E. Except as otherwise provided by the Oklahoma Children's
12 Code and subsection ~~F~~ G of this section, a conviction for a crime
13 shall not be an absolute bar to employment, but shall be considered
14 in relation to specific employment duties and responsibilities.

15 ~~E.~~ F. 1. Information received pursuant to this section by an
16 owner, administrator, or responsible entity of a child care
17 facility, shall be maintained in a confidential manner pursuant to
18 applicable state and federal laws.

19 2. The information, along with any other information relevant
20 to the ability of the individual to perform tasks that require
21 direct contact with children, may be released to another child care
22 facility in response to a request from the child care facility that
23 is considering employing or contracting with the individual unless
24 deemed confidential by state and federal laws.

1 3. Requirements for confidentiality and recordkeeping with
2 regard to the information shall be the same for the child care
3 facility receiving the information in response to a request as those
4 provided for in paragraph 1 of this subsection for the child care
5 facility releasing such information.

6 4. Information received by any facility certified by the Office
7 of Juvenile Affairs may be released to another facility certified by
8 the Office if an individual is being considered for employment or
9 contract, along with any other relevant information, unless the
10 information is deemed confidential by state or federal law. Any
11 information received by the Office shall be maintained in a
12 confidential manner pursuant to applicable state and federal law.

13 ~~F.~~ G. 1. It shall be unlawful for individuals who are required
14 to register pursuant to the Sex Offenders Registration Act to work
15 with or provide services to children or to reside in a child care
16 facility and for any employer who offers or provides services to
17 children to knowingly and willfully employ or contract with, or
18 allow continued employment of or contracting with individuals who
19 are required to register pursuant to the Sex Offenders Registration
20 Act. Individuals required to register pursuant to the Sex Offenders
21 Registration Act who violate any provision of Section 401 et seq. of
22 this title shall, upon conviction, be guilty of a felony punishable
23 by incarceration in a correctional facility for a period of not more
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1 than five (5) years and a fine of not more than Five Thousand
2 Dollars (\$5,000.00) or both such fine and imprisonment.

3 2. Upon a determination by the Department of any violation of
4 the provisions of this section, the violator shall be subject to and
5 the Department may pursue:

- 6 a. an emergency order,
- 7 b. license revocation or denial,
- 8 c. injunctive proceedings,
- 9 d. an administrative penalty not to exceed Ten Thousand
10 Dollars (\$10,000.00), and
- 11 e. referral for criminal proceedings.

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

14 SECTION 2. This act shall become effective November 1, 2017.

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16 56-1-5309 SD 01/09/17

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