

1 STATE OF OKLAHOMA

2 2nd Session of the 59th Legislature (2024)

3 SENATE BILL 1238

By: Garvin

4  
5  
6 AS INTRODUCED

7 An Act relating to child care; amending 10 O.S. 2021,  
8 Section 406, which relates to investigations;  
9 requiring the Department of Human Services to provide  
10 certain information to complainants; providing  
11 certain identification procedure for findings of  
12 report; making person liable for willful or reckless  
13 false complaint; requiring the Department to  
14 establish and utilize certain scope and severity  
15 grid; updating statutory language and reference; and  
16 providing an effective date.

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

18 SECTION 1. AMENDATORY 10 O.S. 2021, Section 406, is  
19 amended to read as follows:

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

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

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

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

15           C. 1. Upon receipt of a complaint against any child care  
16 facility alleging a violation of the provisions of the Oklahoma  
17 Child Care Facilities Licensing Act, or any licensing standard  
18 promulgated by the Department, the Department shall conduct a full  
19 investigation. When a complaint is submitted, the Department shall  
20 inform the complainant of any potential consequences for willfully  
21 or recklessly submitting a false complaint including, but not  
22 limited to, civil liability as described in subsection G of this  
23 section. If upon investigation, it is determined that there are  
24 reasonable grounds to believe that a facility is in violation of the

1 Oklahoma Child Care Facilities Licensing Act or of any standard or  
2 rule promulgated pursuant thereto, the Department shall:

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

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

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

20 4. If the facility refuses to correct a violation or fails to  
21 complete the plan of correction, the Department may issue an  
22 emergency order, revoke the license, or deny the application for a  
23 license. Nothing in this section or Section 407 of this title shall  
24 be construed as preventing the Department from denying an

1 application, revoking a license, or issuing an emergency order for a  
2 single violation of ~~this act~~ the Oklahoma Child Care Facilities  
3 Licensing Act, or the rules ~~of the Department~~ promulgated by the  
4 Director as provided in Section 404 of this title.

5 5. If the Department determines there has been a substantiated  
6 finding of heinous and shocking abuse by a person responsible for a  
7 child's health, safety or welfare, as those terms are defined in  
8 Section 1-1-105 of Title 10A of the Oklahoma Statutes, the  
9 Department shall notify the child care facility owner or operator  
10 and the child care resource and referral organization in writing  
11 immediately or not later than one (1) business day after the  
12 substantiated finding. Upon receiving notice of a substantiated  
13 finding, the facility owner or operator shall attempt to immediately  
14 notify, but not later than seventy-two (72) hours after receiving  
15 notice of the substantiated finding, parents or legal guardians of  
16 children attending the facility by certified mail.

17 D. Upon the completion of the investigation of a complaint  
18 against any child care facility alleging a violation of the  
19 provisions of the Oklahoma Child Care Facilities Licensing Act or  
20 any licensing standard promulgated thereto by the ~~Department~~  
21 Director, the Department shall clearly designate its findings on the  
22 first page of the report of the investigation. The findings shall  
23 state whether the complaint was substantiated or unsubstantiated.  
24 The findings shall identify the employee who is the subject of the

1 complaint, but shall not identify the licensee of the child care  
2 facility unless the licensee was the subject of the complaint or  
3 unless otherwise deemed appropriate by the Department.

4 E. Information obtained by the Department or Oklahoma Child  
5 Care Services concerning a report of a violation of a licensing  
6 requirement, or from any licensee regarding children or their  
7 parents or other relatives shall be deemed confidential and  
8 privileged communications, shall be properly safeguarded, and shall  
9 not be accessible to anyone except as herein provided, unless upon  
10 order of a court of competent jurisdiction. Provided, however, this  
11 provision shall not prohibit the Department from providing a summary  
12 of allegations and findings of an investigation involving a child  
13 care facility that does not disclose identities but that permits  
14 parents to evaluate the facility.

15 F. The ~~Department~~ Director shall promulgate rules to establish  
16 and maintain a grievance process that shall include an anonymous  
17 complaint system for reporting and investigating complaints or  
18 grievances about employees of the Department who retaliate against a  
19 child care facility or facility employee.

20 G. Any person who willfully or recklessly makes a false  
21 complaint without a reasonable basis in fact for such a complaint,  
22 under the provisions of the Oklahoma Child Care Facilities Licensing  
23 Act, shall be liable in a civil suit for any actual damages suffered  
24 by a child care facility or for any punitive damages set by the

1 court or jury which may be allowed in the discretion of the court or  
2 jury when deemed proper by the court or jury.

3 H. The Department shall establish a scope and severity grid to  
4 measure the seriousness of violations of the Oklahoma Child Care  
5 Facilities Licensing Act and shall utilize such scope and severity  
6 grid in determining penalties for such violations including, but not  
7 limited to, penalties under Section 407 of this title.

8 SECTION 2. This act shall become effective November 1, 2024.

9  
10 59-2-2357 DC 12/7/2023 2:01:49 PM

11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24