

1 SECTION 1. AMENDATORY 10 O.S. 2011, Section 404.1, as
2 last amended by Section 1, Chapter 115, O.S.L. 2015 (10 O.S. Supp.
3 2015, Section 404.1), is amended to read as follows:

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

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

8 a. an Oklahoma State Courts Network search conducted by
9 the Department,

10 b. a Child Care Restricted Registry search conducted by
11 the facility,

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

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

18 e. a search of the Department of Corrections' files
19 maintained pursuant to the Sex Offenders Registration
20 Act and conducted by the Department of Human Services;

21 2. Prior to the employment of an individual:

22 a. an Oklahoma State Courts Network search, conducted by
23 the Department, shall be requested and received by the
24 facility; provided however, if twenty-four (24) hours

1 has passed from the time the request to the Department
2 was made, the facility may initiate employment,
3 notwithstanding the provisions of this paragraph,

4 b. a Child Care Restricted Registry search shall be
5 conducted by the facility with notification of the
6 search submitted to the Department,

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

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

13 e. a search of the Department of Corrections' files
14 maintained pursuant to the Sex Offenders Registration
15 Act shall be conducted by the Department and received
16 by the facility;

17 3. Prior to allowing unsupervised access to children by
18 employees or individuals, including contract employees and
19 volunteers and excluding the exceptions in paragraph 8 of this
20 subsection:

21 a. Oklahoma State Courts Network search results,
22 conducted by the Department, shall be received by the
23 facility,
24

1 b. a Child Care Restricted Registry search shall be
2 conducted by the facility with notification of the
3 search submitted to the Department,

4 c. national criminal history records search results
5 pursuant to paragraph 10 of this subsection shall be
6 received by the facility,

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

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

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

19 a. an Oklahoma State Courts Network search conducted by
20 the Department and the facility shall be in receipt of
21 the search results,

22 b. a Child Care Restricted Registry search conducted by
23 the facility with notification of the search submitted
24 to the Department,

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 conducted by the Department and received by the
10 facility;

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

14 a. an Oklahoma State Courts Network search conducted by
15 the Department,

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

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

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

1 6. Prior to review of or access to fingerprint results, owners,
2 responsible entities, directors, and other individuals who have
3 review of or access to fingerprint results shall have a national
4 criminal history records search pursuant to paragraph 10 of this
5 subsection;

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

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

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

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

- 9 a. be conducted by the Oklahoma State Bureau of
10 Investigation and the Federal Bureau of Investigation
11 pursuant to Section 150.9 of Title 74 of the Oklahoma
12 Statutes and the federal National Child Protection Act
13 and the federal Volunteers for Children Act with the
14 Department as the authorized agency,
- 15 b. be submitted and have results received between the
16 Department and the Oklahoma State Bureau of
17 Investigation through secure electronic transmissions,
- 18 c. include Oklahoma State Bureau of Investigation rap
19 back, requiring the Oklahoma State Bureau of
20 Investigation to immediately notify the Department
21 upon receipt of subsequent criminal history activity,
22 and
- 23 d. be paid by the individual or the facility;

1 11. The director of the Department, or designee, shall
2 promulgate rules that may authorize an exception to the
3 fingerprinting requirements for individuals who have a severe
4 physical condition which precludes such individuals from being
5 fingerprinted; and

6 12. The Office of Juvenile Affairs ~~may directly request~~ shall
7 require national criminal history records searches, as defined by
8 Section 150.9 of Title 74 of the Oklahoma Statutes ~~from,~~ which shall
9 be provided by the Oklahoma State Bureau of Investigation for the
10 purpose of obtaining the national criminal history records search,
11 including Rap Back notification of and through direct request by the
12 Office of Juvenile Affairs on behalf of any ~~employee or applicant~~
13 who has resided in Oklahoma for less than three (3) years for which
14 a search is required:

15 a. operator or responsible entity making a request to
16 establish or operate a secure detention center,
17 municipal juvenile facility, community intervention
18 center or secure facility licensed or certified by the
19 Office of Juvenile Affairs,

20 b. employee or applicant of a secure detention center,
21 municipal juvenile facility, community intervention
22 center or secure facility licensed or certified by the
23 Office of Juvenile Affairs, or
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1 c. persons allowed unsupervised access to children,
2 including contract employees or volunteers, of a
3 secure detention center, municipal juvenile facility,
4 community intervention center or secure facility
5 licensed or certified by the Office of Juvenile
6 Affairs.

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

8 (1) any child-placing agency contracting with a
9 person for foster family home services or in any
10 manner for services for the care and supervision
11 of children shall also, prior to executing a
12 contract, complete:

13 (a) a foster parent eligibility assessment for
14 the foster care provider except as otherwise
15 provided by divisions (2) and (4) of this
16 subparagraph, and

17 (b) a national criminal history records search
18 based upon submission of fingerprints for
19 any adult residing in the foster family home
20 through the Department of Human Services
21 pursuant to the provisions of Section 1-7-
22 106 of Title 10A of the Oklahoma Statutes,
23 except as otherwise provided by divisions
24 (2) and (4) of this subparagraph,

1 (2) the child-placing agency may place a child
2 pending completion of the national criminal
3 history records search if the foster care
4 provider and every adult residing in the foster
5 family home has resided in this state for at
6 least five (5) years immediately preceding such
7 placement,

8 (3) a national criminal history records search based
9 upon submission of fingerprints to the Oklahoma
10 State Bureau of Investigation shall also be
11 completed for any adult who subsequently moves
12 into the foster family home,

13 (4) provided, however, the Director of Human Services
14 or the Director of the Office of Juvenile
15 Affairs, or a designee, may authorize an
16 exception to the fingerprinting requirement for a
17 person residing in the home who has a severe
18 physical condition which precludes such person's
19 being fingerprinted, and

20 (5) any child care facility contracting with any
21 person for foster family home services shall
22 request the Office of Juvenile Affairs to conduct
23 a juvenile justice information system review,
24 pursuant to the provisions of Sections 2-7-905

1 and 2-7-308 of Title 10A of the Oklahoma
2 Statutes, for any child over the age of thirteen
3 (13) years residing in the foster family home,
4 other than a foster child, or who subsequently
5 moves into the foster family home. As a
6 condition of contract, the child care facility
7 shall obtain the consent of the parent or legal
8 guardian of the child for such review.

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

17 2. a. (1) On and after September 1, 1998, except as
18 otherwise provided in divisions (2) and (4) of
19 this subparagraph, prior to contracting with a
20 foster family home for placement of any child who
21 is in the custody of the Department of Human
22 Services or the Office of Juvenile Affairs, each
23 Department shall complete a foster parent
24 eligibility assessment, pursuant to the

1 provisions of the Oklahoma Child Care Facilities
2 Licensing Act, for such foster family applicant.
3 In addition, except as otherwise provided by
4 divisions (2) and (4) of this subparagraph, the
5 Department shall complete a national criminal
6 history records search based upon submission of
7 fingerprints for any adult residing in such
8 foster family home.

9 (2) The Department of Human Services and Office of
10 Juvenile Affairs may place a child pending
11 completion of the national criminal history
12 records search if the foster care provider and
13 every adult residing in the foster family home
14 has resided in this state for at least five (5)
15 years immediately preceding such placement.

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

21 (4) The Director of Human Services or the Director of
22 the Office of Juvenile Affairs or their designee
23 may authorize an exception to the fingerprinting
24 requirement for any person residing in the home

1 who has a severe physical condition which
2 precludes such person's being fingerprinted.

3 b. The provisions of this paragraph shall not apply to
4 foster care providers having a contract or contracting
5 with a child-placing agency, the Department of Human
6 Services or the Office of Juvenile Affairs prior to
7 September 1, 1998. Such existing foster care
8 providers shall comply with the provisions of this
9 section, until otherwise provided by rules of the
10 Department or by law.

11 3. The Department of Human Services or the Office of Juvenile
12 Affairs shall provide for a juvenile justice information system
13 review pursuant to Section 2-7-308 of Title 10A of the Oklahoma
14 Statutes for any child over the age of thirteen (13) years residing
15 in a foster family home, other than the foster child, or who
16 subsequently moves into the foster family home.

17 C. The Department or the Board of Juvenile Affairs shall
18 promulgate rules to identify circumstances when a criminal history
19 records search or foster parent eligibility assessment for an
20 applicant or contractor, or any person over the age of thirteen (13)
21 years residing in a private residence in which a child care facility
22 is located, shall be expanded beyond the records search conducted by
23 the Oklahoma State Bureau of Investigation or as otherwise provided
24 pursuant to this section.

1 D. Except as otherwise provided by the Oklahoma Children's Code
2 and subsection F of this section, a conviction for a crime shall not
3 be an absolute bar to employment, but shall be considered in
4 relation to specific employment duties and responsibilities.

5 E. 1. Information received pursuant to this section by an
6 owner, administrator, or responsible entity of a child care
7 facility, shall be maintained in a confidential manner pursuant to
8 applicable state and federal laws.

9 2. The information, along with any other information relevant
10 to the ability of the individual to perform tasks that require
11 direct contact with children, may be released to another child care
12 facility in response to a request from the child care facility that
13 is considering employing or contracting with the individual unless
14 deemed confidential by state and federal laws.

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

20 4. Information received by any facility certified by the Office
21 of Juvenile Affairs may be released to another facility certified by
22 the Office if an individual is being considered for employment or
23 contract, along with any other relevant information, unless the
24 information is deemed confidential by state or federal law. Any

1 information received by the Office shall be maintained in a
2 confidential manner pursuant to applicable state and federal law.

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

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

- 19 a. an emergency order,
- 20 b. license revocation or denial,
- 21 c. injunctive proceedings,
- 22 d. an administrative penalty not to exceed Ten Thousand
23 Dollars (\$10,000.00), and
- 24 e. referral for criminal proceedings.

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

3 SECTION 2. AMENDATORY 10A O.S. 2011, Section 2-7-602, is
4 amended to read as follows:

5 Section 2-7-602. A. The Office of Juvenile Affairs shall
6 establish and maintain such methods of administration, including
7 those necessary to establish and maintain a merit system of
8 personnel administration, and shall promulgate such rules as it
9 deems necessary for the efficient and effective operation of the
10 juvenile institutions and facilities operated by the Office.

11 B. The Executive Director of the Office of Juvenile Affairs
12 shall employ and fix the duties and compensation of a
13 superintendent, and such other personnel as the Executive Director
14 deems necessary, for each of the juvenile institutions and
15 facilities operated by the Office of Juvenile Affairs. The Office
16 shall promulgate, and in its hiring and employment practices, the
17 Office shall adhere to, written minimum qualifications by position
18 for personnel working with or around juveniles in said institutions
19 and facilities. Such minimum qualifications shall be designed to
20 assure that such personnel possess sufficient education, training,
21 experience and background to provide adequate and safe professional
22 care and services to said juveniles; and that the juveniles will not
23 be exposed to abuse, deprivation, criminal conduct, or other
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1 unwholesome conditions attributable to employee incompetence or
2 misconduct.

3 C. 1. The Office of Juvenile Affairs may directly request
4 national criminal history records searches as defined by Section
5 150.9 of Title 74 of the Oklahoma Statutes from the Oklahoma State
6 Bureau of Investigation for the purpose of investigating the
7 criminal history of ~~an~~ any employee or applicant of the Office of
8 Juvenile Affairs. The Oklahoma State Bureau of Investigation may
9 charge a search fee as provided in Section 150.9 of Title 74 of the
10 Oklahoma Statutes. The fee shall be deposited in the OSBI Revolving
11 Fund.

12 2. The Board of Juvenile Affairs shall promulgate rules for the
13 Office of Juvenile Affairs to obtain national criminal history
14 ~~record searches in accordance with the requirements of Section 404.1~~
15 ~~of Title 10 of the Oklahoma Statutes~~ records for personnel described
16 in subsection B of this section, except that such rules may permit
17 employment of applicants pending receipt of the results of national
18 criminal history record searches.

19 D. The superintendent of a juvenile institution or facility
20 shall be the guardian of the person of each juvenile in the
21 institution or facility for the limited purpose of providing care
22 and protection for any life-threatening situation that may arise.

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1 SECTION 3. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 2-7-617 of Title 10A, unless
3 there is created a duplication in numbering, reads as follows:

4 A. Prior to the issuing by the Office of Juvenile Affairs a
5 certification to any person or entity for a secure detention center,
6 municipal juvenile facility, community intervention center or secure
7 facility, such persons or entities shall have a national criminal
8 history records search conducted pursuant to paragraph 12 of
9 subsection A of Section 404.1 of Title 10 of the Oklahoma Statutes.

10 Such persons or entities shall include any:

- 11 1. Operators and responsible entities;
- 12 2. Individual employee or applicant; or
- 13 3. Employee or individual allowed unsupervised access to
14 children, including contract employees and volunteers.

15 B. The Oklahoma State Bureau of Investigation may charge a
16 search fee as provided in Section 150.9 of Title 74 of the Oklahoma
17 Statutes. The fee shall be deposited in the OSBI Revolving Fund.
18 The fee shall be paid for by the persons or entities identified in
19 subsection A of this section.

20 C. The Office of Juvenile Affairs and the Oklahoma State Bureau
21 of Investigation are authorized to enter into an agreement pursuant
22 to the Interlocal Cooperation Act, Section 1001 et seq. of Title 74
23 of the Oklahoma Statutes, to implement the provisions of this
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1 section, including the transfer of funds to offset the cost
2 associated with national criminal history records searches.

3 D. The Board of Juvenile Affairs may promulgate rules to
4 implement the provisions of this act.

5 SECTION 4. This act shall become effective November 1, 2016.

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7 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS AND BUDGET, dated
8 04/04/2016 - DO PASS, As Amended.

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