

1 STATE OF OKLAHOMA

2 2nd Session of the 51st Legislature (2008)

3 SUBCOMMITTEE RECOMMENDATION  
4 FOR

5 HOUSE BILL NO. 2864

6 By: Shelton

7 SUBCOMMITTEE RECOMMENDATION

8 An Act relating to children; creating the Child Care  
9 Facilities Licensing Indemnity Fund; providing for  
10 administration; stating purpose; providing procedures  
11 for participation; requiring certain contributions;  
12 establishing maximum coverage amount; providing for  
13 investment of funds; providing procedures for claims;  
14 providing for payment of claims; establishing time  
15 limitation for the submission of claims; requiring  
16 promulgation of rules; providing for codification;  
17 and providing an effective date.

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

19 SECTION 1. NEW LAW A new section of law to be codified  
20 in the Oklahoma Statutes as Section 420 of Title 10, unless there is  
21 created a duplication in numbering, reads as follows:

22 A. There is created within the Insurance Department the "Child  
23 Care Facilities Licensing Indemnity Fund". The Indemnity Fund shall  
24 be established for the benefit of licensed child care providers.  
The Indemnity Fund shall compensate parents and children for any  
injury caused to a child due to negligence while in the care of a  
participating facility.

1 B. In order for a child care facility to participate in the  
2 Indemnity Fund, a facility shall:

3 1. At the time of licensure for a new facility, or on or before  
4 February 1, 2009, for an existing facility, pay an initial  
5 contribution of Two Hundred Fifty Dollars (\$250.00);

6 2. Contribute a second payment of Two Hundred Fifty Dollars  
7 (\$250.00) to the Indemnity Fund on or before February 1 of:

8 a. the second year of licensure of a new facility, or

9 b. the second year of participation in the Indemnity Fund  
10 for an existing facility; and

11 3. Contribute Fifty Dollars (\$50.00) per year in order to  
12 remain a participant in the Indemnity Fund on or before February 1  
13 for every subsequent year thereafter.

14 C. The maximum amount of coverage per claim shall be One  
15 Hundred Thousand Dollars (\$100,000.00).

16 D. The Department shall have authority to invest the  
17 assessments. All proceeds of the investment shall be placed in the  
18 Indemnity Fund. Accrued interest each year shall remain a part of  
19 the Indemnity Fund.

20 E. When injury to a child occurs while in the care of a  
21 facility participating in the Indemnity Fund and current with all  
22 contributions, the facility shall present a claim to the Department.  
23 To verify the claim, the facility shall present any evidence  
24 required by the Department including, but not limited to, evidence

1 of physician reports and photographs of injury. All facility claim  
2 payments shall be made by the Department to the parent or guardian  
3 of the injured child from the Indemnity Fund as soon as practicable  
4 and not later than one (1) year following the date of the claim.

5 F. If there is an insufficient amount of funds in the Indemnity  
6 Fund to cover all claims for a certain year, payments shall be made  
7 on a pro rata basis up to one hundred percent (100%) of the total  
8 injury cost or coverage limitation provided for in subsection D of  
9 this section. If payment is not received in the amount of one  
10 hundred percent (100%) of total cost of injury or coverage  
11 limitation for a certain year, then additional amounts shall be paid  
12 as funds become available in succeeding years until repayment of one  
13 hundred percent (100%) of total cost of injury or coverage  
14 limitation is attained.

15 G. The facility shall, within sixty (60) days of the date of  
16 injury, present the claim to the Department. A facility may submit  
17 a written request to the Department for a sixty-day extension of the  
18 filing period for good reason. If the claim is not presented within  
19 the time and in the manner required, the claim shall be forever  
20 barred and the facility shall forfeit all rights to remuneration or  
21 payment.

22 H. The Department shall promulgate rules in accordance with  
23 this section.

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SECTION 2. This act shall become effective November 1, 2008.

51-2-10179      SAB      02/20/08