

1 STATE OF OKLAHOMA

2 1st Session of the 52nd Legislature (2009)

3 COMMITTEE SUBSTITUTE

4 FOR ENGROSSED

5 SENATE BILL NO. 478

By: Jolley and Johnson
(Constance) of the Senate

6 and

7 Peters of the House

8
9 COMMITTEE SUBSTITUTE

10 An Act relating to children; amending Section 2,
11 Chapter 58, O.S.L. 2008 (10 O.S. Supp. 2008, Section
12 404.3), which relates to liability insurance for
13 child care facilities; providing for the maintenance
14 of certain forms; providing for self-insurance;
15 requiring the posting of certain notice; requiring
16 revocation or suspension of license for
17 noncompliance; exempting certain persons; authorizing
18 the promulgation of rules; and declaring an
19 emergency.

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

21 SECTION 1. AMENDATORY Section 2, Chapter 58, O.S.L. 2008
22 (10 O.S. Supp. 2008, Section 404.3), is amended to read as follows:

23 Section 404.3 A. A child care facility shall maintain
24 liability insurance coverage of at least Two Hundred Thousand
Dollars (\$200,000.00) for each occurrence of negligence. An
insurance policy or contract required under this section shall cover

1 injury to a child due to negligence that occurs while the child is
2 ~~on the premises of the child care facility or in the care of the~~
3 child care facility.

4 B. The Department of Human Services shall promulgate rules
5 providing for a standard form to be signed and dated by an insurance
6 agent licensed in this state stating that the child care facility
7 has an unexpired and uncanceled insurance policy or contract of at
8 least Two Hundred Thousand Dollars (\$200,000.00) that meets the
9 requirements of this section. This form shall be completed annually
10 and shall be ~~kept in the file of~~ maintained by the child care
11 facility. Upon request, the form shall be made available to the
12 Department to determine compliance with licensing requirements.

13 C. Should the child care facility for financial reasons or for
14 lack of availability of an underwriter willing to issue a policy be
15 unable to secure the insurance required under subsection A of this
16 section ~~or~~, should the policy limits be exhausted, or if the child
17 care facility reports self-insurance in accordance with state law
18 the child care facility shall ~~notify the parent or guardian of each~~
19 ~~child for whom the child care facility provides care a written~~
20 ~~notice that the liability coverage is not provided and there will~~
21 ~~not be a ground for suspension or revocation of the child care~~
22 ~~facility's license under the Oklahoma Child Care Facilities~~
23 ~~Licensing Act. The child care facility shall also notify:~~

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1 1. Post a notice at the facility indicating the facility does
2 not have liability insurance coverage pursuant to this section or
3 reports self-insurance in accordance with state law; and

4 2. Notify the Department that coverage is not provided and
5 provide the reason for same or that the facility reports self-
6 insurance in accordance with state law.

7 Failure by a child care facility to comply with the provisions
8 of this subsection is a ground for suspension or revocation of the
9 child care facility license under the Oklahoma Child Care Facilities
10 Licensing Act.

11 D. The ~~Department~~ Commission for Human Services shall
12 promulgate rules providing for a standard form for the facility to
13 ~~provide to parents or guardians notifying the parents or guardians~~
14 ~~that post which indicates~~ the facility does not carry liability
15 ~~insurance for the reasons allowed in subsection C of this section.~~
16 ~~This form shall be signed and dated by a parent or guardian and~~
17 ~~maintained in the file of the child. If the facility is without~~
18 ~~insurance for reasons provided for in subsection C of this section~~
19 ~~for longer than one (1) year, the facility shall update this~~
20 ~~notification form with signatures and dates annually~~ or reports
21 self-insurance in accordance with state law. In no case shall the
22 inability to secure coverage serve to indemnify the child care
23 facility due to negligence.

1 E. The insurance policy or contract shall be maintained at all
2 times in an amount as required by this section, except as provided
3 for in ~~subsections~~ subsection C and D of this section. ~~Failure by a~~
4 ~~child care facility to renew the policy or contract or to maintain~~
5 ~~the policy or contract in the required amount is a ground for~~
6 ~~suspension or revocation of the child care facility license under~~
7 ~~the Oklahoma Child Care Facilities Licensing Act.~~

8 F. ~~This section~~ The requirements for posting shall not apply to
9 ~~foster family homes or group homes:~~

- 10 1. Licensed child-placing agencies;
- 11 2. Licensed residential child care facilities; or
- 12 3. Department-certified child care facilities.

13 G. The Commission may promulgate rules requiring liability
14 insurance for facilities listed in subsection F of this section.

15 SECTION 2. It being immediately necessary for the preservation
16 of the public peace, health and safety, an emergency is hereby
17 declared to exist, by reason whereof this act shall take effect and
18 be in full force from and after its passage and approval.

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20 52-1-7443 SAB 03/25/09
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