

THE HOUSE OF REPRESENTATIVES
Thursday, March 26, 2009

Committee Substitute for
ENGROSSED
Senate Bill No. 478

COMMITTEE SUBSTITUTE FOR ENGROSSED SENATE BILL NO. 478 - By: JOLLEY AND JOHNSON (CONSTANCE) of the Senate and PETERS of the House.

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

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

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

3 Section 404.3 A. A child care facility shall maintain liability insurance coverage of
4 at least Two Hundred Thousand Dollars (\$200,000.00) for each occurrence of negligence.
5 An insurance policy or contract required under this section shall cover injury to a child
6 due to negligence that occurs while the child is ~~on the premises of the child care facility~~
7 ~~or~~ in the care of the child care facility.

8 B. The Department of Human Services shall promulgate rules providing for a
9 standard form to be signed and dated by an insurance agent licensed in this state stating

1 that the child care facility has an unexpired and uncanceled insurance policy or contract
2 of at least Two Hundred Thousand Dollars (\$200,000.00) that meets the requirements of
3 this section. This form shall be completed annually and shall be ~~kept in the file of~~
4 maintained by the child care facility. Upon request, the form shall be made available to
5 the Department to determine compliance with licensing requirements.

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

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

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

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

1 D. The ~~Department~~ Commission for Human Services shall promulgate rules
2 providing for a standard form for the facility to ~~provide to parents or guardians notifying~~
3 ~~the parents or guardians that~~ post which indicates the facility does not carry liability
4 insurance for the reasons allowed in subsection C of this section. ~~This form shall be~~
5 ~~signed and dated by a parent or guardian and maintained in the file of the child. If the~~
6 ~~facility is without insurance for reasons provided for in subsection C of this section for~~
7 ~~longer than one (1) year, the facility shall update this notification form with signatures~~
8 ~~and dates annually or reports self-insurance in accordance with state law.~~ In no case
9 shall the inability to secure coverage serve to indemnify the child care facility due to
10 negligence.

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

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

- 18 1. Licensed child-placing agencies;
- 19 2. Licensed residential child care facilities; or
- 20 3. Department-certified child care facilities.

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

1 SECTION 2. It being immediately necessary for the preservation of the public
2 peace, health and safety, an emergency is hereby declared to exist, by reason whereof
3 this act shall take effect and be in full force from and after its passage and approval.
4 COMMITTEE REPORT BY: COMMITTEE ON HUMAN SERVICES, dated 03-25-09 -
5 DO PASS, As Amended.