

1 STATE OF OKLAHOMA

2 2nd Session of the 53rd Legislature (2012)

3 COMMITTEE SUBSTITUTE

4 FOR

5 HOUSE BILL NO. 1848

6 By: Shelton

7 COMMITTEE SUBSTITUTE

8 An Act relating to children; amending 10 O.S. 2011,  
9 Sections 404.2 and 404.3, which relate to Demarion's  
10 Law; updating statutory reference; requiring  
11 insurance or self-insurance coverage of child care  
12 facilities; removing exceptions to requirements for  
13 posting; specifying alternative compliance  
14 requirements; requiring certain notice; and providing  
15 an effective date.

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

17 SECTION 1. 10 O.S. 2011, Section 404.2, is amended to read  
18 as follows:

19 Section 404.2 ~~This act~~ Sections 404.2 and 404.3 of this title  
20 shall be known and may be cited as "Demarion's Law".

21 SECTION 2. AMENDATORY 10 O.S. 2011, Section 404.3, is  
22 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

1 insurance policy or contract required under this section shall cover  
2 injury to a child due to negligence that occurs while the child is  
3 in the care of the 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 maintained by the child care facility. Upon request,  
11 the form shall be made available to the Department to determine  
12 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, should the policy limits be exhausted, or if~~ If the child  
17 care facility reports self-insurance in accordance with state law  
18 the child care facility shall:

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

22 2. Notify the Department that ~~coverage is not provided or that~~  
23 the facility reports self-insurance in accordance with state law.

24

1 D. The Commission for Human Services shall promulgate rules  
2 providing for a standard form for the facility to post which  
3 indicates the facility ~~does not carry liability insurance or reports~~  
4 self-insurance in accordance with state law. ~~In no case shall the~~  
5 ~~inability to secure coverage serve to indemnify the child care~~  
6 ~~facility due to negligence.~~

7 E. The insurance policy or contract shall be maintained at all  
8 times in an amount as required by this section, except as provided  
9 for in subsection C of this section.

10 F. ~~The requirements for posting shall not apply to:~~

11 ~~1. Licensed child placing agencies;~~

12 ~~2. Licensed residential child care facilities; or~~

13 ~~3. Department certified child care facilities.~~

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

16 H. If a child care facility is unable to obtain liability  
17 insurance for financial reasons or due to a lack of availability,  
18 the facility may operate subject to alternative compliance  
19 requirements established by the Department. The Department shall  
20 promulgate rules establishing alternative compliance which shall be  
21 identical to all other compliance requirements except for liability  
22 insurance coverage. Any child care facility operating pursuant to  
23 alternative compliance requirements shall post a notice at the  
24

1 facility indicating the alternative compliance requirements have  
2 been met in accordance with state law.

3 G. Failure by a child care facility to comply with the  
4 provisions of this section is grounds for suspension or revocation  
5 of the child care facility license under the Oklahoma Child Care  
6 Facilities Licensing Act.

7 SECTION 3. This act shall become effective January 1, 2013.

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