

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 2nd Session of the 53rd Legislature (2012)

4 COMMITTEE SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 1848

By: Shelton

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8 COMMITTEE SUBSTITUTE

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

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

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

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

22 SECTION 2. AMENDATORY 10 O.S. 2011, Section 404.3, is
23 amended to read as follows:

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

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

16 C. ~~Should the child care facility for financial reasons or for~~
17 ~~lack of availability of an underwriter willing to issue a policy be~~
18 ~~unable to secure the insurance required under subsection A of this~~
19 ~~section, should the policy limits be exhausted, or if If the child~~
20 care facility reports self-insurance in accordance with state law
21 the child care facility shall:

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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 or that~~
5 the facility reports self-insurance in accordance with state law.

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

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

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

16 1. ~~Licensed child-placing agencies;~~

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

18 3. ~~Department-certified child care facilities.~~

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

21 H. If a child care facility is unable to obtain liability
22 insurance for financial reasons or due to a lack of availability,
23 the facility may operate subject to alternative compliance

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1 requirements established by the Department. The Department shall
2 promulgate rules establishing alternative compliance which shall be
3 identical to all other compliance requirements except for liability
4 insurance coverage. Any child care facility operating pursuant to
5 alternative compliance requirements shall post a notice at the
6 facility indicating the alternative compliance requirements have
7 been met in accordance with state law.

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

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

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14 COMMITTEE REPORT BY: COMMITTEE ON HUMAN SERVICES, dated 02/28/2012 -
15 DO PASS, As Amended.

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UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.