

1 **SENATE FLOOR VERSION**

2 April 1, 2013

3 **AS AMENDED**

4 ENGROSSED HOUSE

5 BILL NO. 1259

6 By: Shelton of the House

7 and

8 Coates of the Senate

9 **[children - Demarion's Law - alternative compliance**
10 **requirements - effective date]**

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

12 SECTION 1. AMENDATORY 10 O.S. 2011, Section 404.2, is
13 amended to read as follows:

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

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

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

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

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

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

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

21 D. The Commission for Human Services shall promulgate rules
22 providing for a standard form for the facility to post which
23 indicates the facility ~~does not carry liability insurance or~~ reports
24 self-insurance in accordance with state law. ~~In no case shall the~~

1 ~~inability to secure coverage serve to indemnify the child care~~
2 ~~facility due to negligence.~~

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

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

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

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

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

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

12 H. If a child care facility is unable to obtain liability
13 insurance for financial reasons or due to a lack of availability,
14 the facility may operate subject to alternative compliance
15 requirements established by the Department. The Department shall
16 promulgate rules establishing alternative compliance which shall be
17 identical to all other compliance requirements except for liability
18 insurance coverage. Any child care facility operating pursuant to
19 alternative compliance requirements shall post a notice at the
20 facility indicating the alternative compliance requirements have
21 been met in accordance with state law.

22 G. Failure by a child care facility to comply with the
23 provisions of this section is grounds for suspension or revocation

24

1 of the child care facility license under the Oklahoma Child Care
2 Facilities Licensing Act.

3 SECTION 3. This act shall become effective January 1, 2014.

4 COMMITTEE REPORT BY: COMMITTEE ON HEALTH AND HUMAN SERVICES
5 April 1, 2013 - DO PASS AS AMENDED
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