

ENROLLED HOUSE
BILL NO. 2863

By: Shelton, BigHorse, Pittman
and Sherrer of the House

and

Leftwich, Rice, Garrison
and Johnson (Constance) of
the Senate

An Act relating to children; creating Demarion's Law; providing for mandated liability insurance for child care facilities under the Oklahoma Child Care Facilities Licensing Act; specifying coverage; providing for proof of coverage; directing the Department of Human Services to promulgate rules establishing certain form; providing exception for mandated coverage; providing for certain form; providing for suspension of license; exempting certain persons; providing for codification; and providing an effective date.

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 404.2 of Title 10, unless there is created a duplication in numbering, reads as follows:

This act shall be known and may be cited as "Demarion's Law".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 404.3 of Title 10, unless there is created a duplication in numbering, reads as follows:

A. A child care facility shall maintain 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 injury to a child that occurs while the child is on the premises of the child care facility or in the care of the child care facility.

B. The Department of Human Services shall promulgate rules providing for a standard form to be signed and dated by an insurance agent licensed in this state stating that the child care facility has an unexpired and uncanceled insurance policy or contract of at least Two Hundred Thousand Dollars (\$200,000.00) that meets the requirements of this section. This form shall be completed annually and shall be kept in the file of the facility.

C. Should the child care facility for financial reasons or for lack of availability of an underwriter willing to issue a policy be unable to secure the insurance required under subsection A of this section or should the policy limits be exhausted, the child care facility shall notify the parent or guardian of each child for whom the child care facility provides care a written notice that the liability coverage is not provided and there will not be a ground for suspension or revocation of the child care facility's license under the Oklahoma Child Care Facilities Licensing Act. The child care facility shall also notify the Department that coverage is not provided and provide the reason for same.

D. The Department shall promulgate rules providing for a standard form for the facility to provide to parents or guardians notifying the parents or guardians that the facility does not carry liability insurance for the reasons allowed in subsection C of this section. This form shall be signed and dated by a parent or guardian and maintained in the file of the child. If the facility is without insurance for reasons provided for in subsection C of this section for longer than one (1) year, the facility shall update this notification form with signatures and dates annually. In no case shall the inability to secure coverage serve to indemnify the child care facility due to negligence.

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

F. This section shall not apply to foster family homes or group homes.

SECTION 3. This act shall become effective November 1, 2008.

Passed the House of Representatives the 13th day of March, 2008.

Presiding Officer of the House of
Representatives

Passed the Senate the 15th day of April, 2008.

Presiding Officer of the Senate