

SB349

FILED

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WEST VIRGINIA LEGISLATURE
SEVENTY-NINTH LEGISLATURE
REGULAR SESSION, 2010

OFFICE OF THE SECRETARY OF STATE

ENROLLED

COMMITTEE SUBSTITUTE

FOR

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FOR

Senate Bill No. 349

(SENATORS PALUMBO, BROWNING,
McCABE, FOSTER, LAIRD, WELLS,
STOLLINGS AND D. FACEMIRE, *original sponsors*)

[Passed March 5, 2010; in effect ninety days from passage.]

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AN ACT to amend and reenact §49-2B-3 and §49-2B-8 of the Code of West Virginia, 1931, as amended, all relating to requiring licensed or registered child care centers to have an annually updated written plan for evacuation in the event of an emergency; providing for plan requirements; providing for plan distribution and availability requirements; and making the evacuation plan a point of investigation before a new license is received.

Be it enacted by the Legislature of West Virginia:

That §49-2B-3 and §49-2B-8 of the Code of West Virginia, 1931, as amended, be amended and reenacted, all to read as follows:

ARTICLE 2B. DUTIES OF SECRETARY OF HEALTH AND HUMAN RESOURCES FOR CHILD WELFARE.

§49-2B-3. Licensure, certification, approval and registration requirements.

1 (a) Any person, corporation or child welfare agency,
2 other than a state agency, which operates a residential
3 child care facility, a child-placing agency or a day care
4 center shall obtain a license from the department.

5 (b) Any residential child care facility, day care center or
6 any child-placing agency operated by the state shall
7 obtain approval of its operations from the secretary:
8 *Provided*, That this requirement does not apply to any
9 juvenile detention facility or juvenile correctional facility
10 operated by or under contract with the Division of Juve-
11 nile Services, created pursuant to section two, article five-
12 e of this chapter, for the secure housing or holding of
13 juveniles committed to its custody. The facilities and
14 placing agencies shall maintain the same standards of care
15 applicable to licensed facilities, centers or placing agencies
16 of the same category.

17 (c) Any family day care facility which operates in this
18 state, including family day care facilities approved by the
19 department for receipt of funding, shall obtain a statement
20 of certification from the department.

21 (d) Every family day care home which operates in this
22 state, including family day care homes approved by the
23 department for receipt of funding, shall obtain a certifi-
24 cate of registration from the department.

25 (e) This section does not apply to:

26 (1) A kindergarten, preschool or school education
27 program which is operated by a public school or which is
28 accredited by the state Department of Education, or any
29 other kindergarten, preschool or school programs which
30 operate with sessions not exceeding four hours per day for
31 any child;

32 (2) An individual or facility which offers occasional care
33 of children for brief periods while parents are shopping,
34 engaging in recreational activities, attending religious
35 services or engaging in other business or personal affairs;

36 (3) Summer recreation camps operated for children
37 attending sessions for periods not exceeding thirty days;

38 (4) Hospitals or other medical facilities which are
39 primarily used for temporary residential care of children
40 for treatment, convalescence or testing;

41 (5) Persons providing family day care solely for children
42 related to them; or

43 (6) Any juvenile detention facility or juvenile correc-
44 tional facility operated by or under contract with the
45 Division of Juvenile Services, created pursuant to section
46 two, article five-e of this chapter, for the secure housing or
47 holding of juveniles committed to its custody.

48 (f) The secretary is hereby authorized to issue an emer-
49 gency rule relating to conducting a survey of existing
50 facilities in this state in which children reside on a tempo-
51 rary basis in order to ascertain whether they should be
52 subject to licensing under this article or applicable
53 licensing provisions relating to behavioral health treat-
54 ment providers.

55 (g) Any informal family child care home or relative
56 family child care home may voluntarily register and
57 obtain a certificate of registration from the department.

58 (h) Any child care service that is licensed or receives a
59 certificate of registration shall have a written plan for
60 evacuation in the event of fire, natural disaster or other
61 threatening situation that may pose a health or safety
62 hazard to the children in the child care service.

63 (1) The plan shall include, but not be limited to:

- 64 (A) A designated relocation site and evacuation;
- 65 (B) Procedures for notifying parents of the relocation
66 and ensuring family reunification;
- 67 (C) Procedures to address the needs of individual
68 children including children with special needs;
- 69 (D) Instructions relating to the training of staff or the
70 reassignment of staff duties, as appropriate;
- 71 (E) Coordination with local emergency management
72 officials; and
- 73 (F) A program to ensure that appropriate staff are
74 familiar with the components of the plan.
- 75 (2) A child care service shall update the evacuation plan
76 by December 31, of each year. If a child care service fails
77 to update the plan, no action shall be taken against the
78 child care service's license or registration until notice is
79 provided and the child care service is given thirty days
80 after the receipt of notice to provide an updated plan.
- 81 (3) A child care service shall retain an updated copy of
82 the plan for evacuation and shall provide notice of the
83 plan and notification that a copy of the plan will be
84 provided upon request to any parent, custodian or guard-
85 ian of each child at the time of the child's enrollment in
86 the child care service and when the plan is updated.
- 87 (4) All child care centers and family child care facilities
88 shall provide the plan and each updated copy of the plan
89 to the Director of the Office of Emergency Services in the
90 county where the center or facility is located.

§49-2B-8. Application for license or approval.

- 1 (a) Any person or corporation or any governmental
2 agency intending to act as a child welfare agency shall
3 apply for a license, approval or registration certificate to

4 operate child care facilities regulated by this article.
5 Applications for licensure, approval or registration shall
6 be made separately for each child care facility to be
7 licensed, approved, certified or registered.

8 (b) The secretary shall prescribe forms and reasonable
9 application procedures including, but not limited to,
10 fingerprinting of applicants and other persons responsible
11 for the care of children for submission to the State Police
12 and, if necessary, to the Federal Bureau of Investigation
13 for criminal history record checks.

14 (c) Before issuing a license, or approval, the secretary
15 shall investigate the facility, program and persons respon-
16 sible for the care of children. The investigation shall
17 include, but not be limited to, review of resource need,
18 reputation, character and purposes of applicants, a check
19 of personnel criminal records, if any, and personnel
20 medical records, the financial records of applicants,
21 review of the facilities emergency evacuation plan and
22 consideration of the proposed plan for child care from
23 intake to discharge.

24 (d) Before a home registration is granted, the secretary
25 shall make inquiry as to the facility, program and persons
26 responsible for the care of children. The inquiry shall
27 include self-certification by the prospective home of
28 compliance with standards including, but not limited to:

29 (1) Physical and mental health of persons present in the
30 home while children are in care;

31 (2) Criminal and child abuse or neglect history of
32 persons present in the home while children are in care;

33 (3) Discipline;

34 (4) Fire and environmental safety;

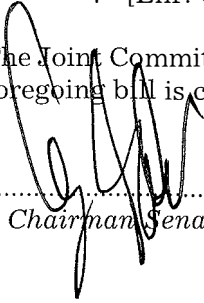
35 (5) Equipment and program for the children in care;

36 (6) Health, sanitation and nutrition.

37 (e) Further inquiry and investigation may be made as the
38 secretary may direct.

39 (f) The secretary shall make a decision on each applica-
40 tion within sixty days of its receipt and shall provide to
41 unsuccessful applicants written reasons for the decision.

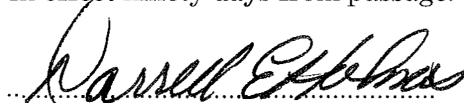
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.



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Chairman Senate Committee

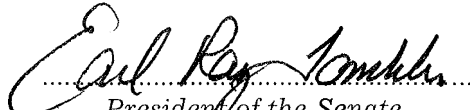

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Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.


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Clerk of the Senate


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Clerk of the House of Delegates


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President of the Senate


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Speaker House of Delegates

The within is appended this the 16th
Day of March, 2010.


.....
Governor

PRESENTED TO THE
GOVERNOR

MAR 12 2010

Time 2:11 pm