

FILED

2010 APR -2 PM 4: 07

OFFICE WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE
SEVENTY-NINTH LEGISLATURE
REGULAR SESSION, 2010

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ENROLLED

Senate Bill No. 610

(BY SENATORS HELMICK, McCABE, BOWMAN,
EDGELL, D. FACEMIRE, FANNING, GREEN,
PREZIOSO, UNGER, WELLS, WHITE, BOLEY,
K. FACEMYER, GUILLS AND SYPOLT)

[Passed March 13, 2010; in effect ninety days from passage.]

SB 610

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WELLS, WHITE, BOLEY, K. FACEMYER, GUILLS AND SYPOLT)

[Passed March 13, 2010; in effect ninety days from passage.]

AN ACT to amend and reenact §49-2B-3 of the Code of West Virginia, 1931, as amended, relating to child care services; providing requirements for out-of-school time programs; exempting certain programs; requiring registration of certain programs; 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 of the Code of West Virginia, 1931, as amended, be amended and reenacted 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 center shall obtain a license from the depart-
4 ment.

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;

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 (7) Any out-of-school time program that has been
49 awarded a grant by the West Virginia Department of
50 Education to provide out-of-school time programs to
51 kindergarten through twelfth grade students when the
52 program is monitored by the West Virginia Department of
53 Education; or

54 (8) Any out-of-school time program serving children six
55 years of age or older and meets all of the following re-
56 quirements, or is an out-of-school time program that is
57 affiliated and in good standing with a national Congres-
58 sionally chartered organization and meets all of the
59 following requirements:

60 (i) The program is located in a facility that meets all fire
61 and health codes;

62 (ii) The program performs background checks on all
63 volunteers and staff;

64 (iii) The program's primary source of funding is not from
65 fees for service; and,

66 (iv) The program has a formalized monitoring system in
67 place.

68 (f) The secretary is authorized to issue an emergency rule
69 relating to conducting a survey of existing facilities in this
70 state in which children reside on a temporary basis in
71 order to ascertain whether they should be subject to
72 licensing under this article or applicable licensing provi-
73 sions relating to behavioral health treatment providers.

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

77 (h) All facilities or programs that provide out-of-school
78 time care shall register with the department upon com-
79 mencement of operations and on an annual basis thereaf-
80 ter. The department shall obtain information such as the
81 name of the facility or program, the description of the
82 services provided and any other information relevant to
83 the determination by the department as to whether the
84 facility or program meets the criteria for exemption under
85 this section.

86 (i) Any child care service that is licensed or receives a
87 certificate of registration shall have a written plan for
88 evacuation in the event of fire, natural disaster or other
89 threatening situation that may pose a health or safety
90 hazard to the children in the child care service.

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

92 (A) A designated relocation site and evacuation;

93 (B) Procedures for notifying parents of the relocation
94 and ensuring family reunification;

95 (C) Procedures to address the needs of individual
96 children including children with special needs;

97 (D) Instructions relating to the training of staff or the
98 reassignment of staff duties, as appropriate;

99 (E) Coordination with local emergency management
100 officials; and

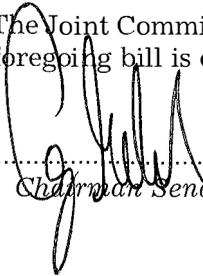
101 (F) A program to ensure that appropriate staff are
102 familiar with the components of the plan.

103 (2) A child care service shall update the evacuation plan
104 by December 31, of each year. If a child care service fails
105 to update the plan, no action shall be taken against the
106 child care service's license or registration until notice is
107 provided and the child care service is given thirty days
108 after the receipt of notice to provide an updated plan.

109 (3) A child care service shall retain an updated copy of
110 the plan for evacuation and shall provide notice of the
111 plan and notification that a copy of the plan will be
112 provided upon request to any parent, custodian or guard-
113 ian of each child at the time of the child's enrollment in
114 the child care service and when the plan is updated.

115 (4) All child care centers and family child care facilities
116 shall provide the plan and each updated copy of the plan
117 to the Director of the Office of Emergency Services in the
118 county where the center or facility is located.

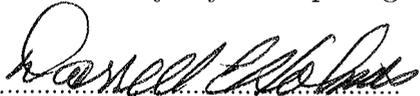
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

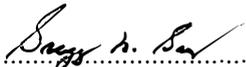

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Chairman Senate Committee

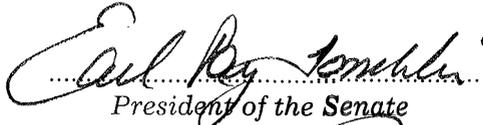

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Chairman House Committee

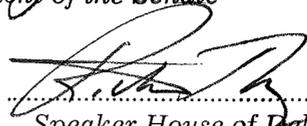
Originated in the Senate.

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 approved* this the *2nd*
Day of *April* 2010.


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Governor

PRESENTED TO THE
GOVERNOR

APR 01 2010

Time 11:30a