WEST VIRGINIA LEGISLATURE

2023 REGULAR SESSION

ENGROSSED

House Bill 3439

By Delegates Pinson, Westfall and Burkhammer

[Introduced February 13, 2023; referred  
to the Committee on the Judiciary]

A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §49-2-130, relating to child placing agencies; requiring a policy of insurance; and limiting civil damages or injuries.

Be it enacted by the Legislature of West Virginia:

Article 2. State responsibilities for children.

§49-2-130. Limitation of liability; mandatory errors and omissions insurance.

(a) Every child placing agency shall obtain a policy of insurance in an amount not less than $1 million per incident insuring the person or entity and every employee, against loss from the liability imposed by law for damages arising from any error or omission in the provision of child placement services.

(b) No program or service provided by a licensed child welfare entity is liable for civil damages in excess of $1,000,000, per incident, unless the damages or injuries are intentionally or maliciously inflicted.

(c) Every person or entity required by this section to obtain a policy of insurance shall furnish proof of the existence of the policy to the department on or before January 1 of each calendar year.

(d) Any person or entity who fails to secure a policy of insurance before providing child placement services is not entitled to the limited liability created by subsection (b) of this section.

NOTE: The purpose of this bill is to limit the civil liability of child placing agencies that obtain an insurance policy in an amount not less than $1 million per incident.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.