

# WEST VIRGINIA LEGISLATURE

## 2017 REGULAR SESSION

**Introduced**

### **Senate Bill 39**

**FISCAL  
NOTE**

BY SENATORS STOLLINGS, PLYMALE, OJEDA AND

FACEMIRE

[Introduced February 8, 2017; referred  
to the Committee on Government Organization; and then  
to the Committee on Finance]

1 A BILL to amend and reenact §29-12-5a of the Code of West Virginia, 1931, as amended, relating  
 2 to liability insurance for certain persons connected to county boards of education; requiring  
 3 Board of Risk and Insurance Management cover volunteer workers and student teachers  
 4 in the same manner as other board of education employees; defining “volunteer worker”;  
 5 and limiting civil liability in certain circumstances.

*Be it enacted by the Legislature of West Virginia:*

1 That §29-12-5a of the Code of West Virginia, 1931, as amended, be amended and  
 2 reenacted to read as follows:

**ARTICLE 12. STATE INSURANCE.**

**§29-12-5a. Liability insurance for county boards of education, their employees and  
 members, the county superintendent of schools, and for employees and officers of  
 the State Department of Corrections.**

1 (a) In accordance with the provisions of this article, the ~~state~~ Board of Risk and Insurance  
 2 Management shall provide appropriate professional or other liability insurance for all county  
 3 boards of education, teachers, supervisory and administrative staff members, service personnel,  
 4 county superintendents of schools and school board members, volunteer workers and student  
 5 teachers and for all employees and officers of the State ~~Department~~ Division of Corrections:  
 6 *Provided,* That the Board of Risk and Insurance Management is not required to provide insurance  
 7 for every property, activity or responsibility of county boards of education, teachers, supervisory  
 8 and administrative staff members, service personnel, county superintendents of schools, ~~and~~  
 9 school board members, volunteer workers and student teachers and for all employees and  
 10 officers of the State ~~Department~~ Division of Corrections:

11 (b) Insurance provided by the Board of Risk and Insurance Management pursuant to the  
 12 provisions of subsection (a) of this section shall cover claims, demands, actions, suits or  
 13 judgments by reason of alleged negligence or other acts resulting in bodily injury or property  
 14 damage to any person within or without any school building or correctional institution if, at the

15 time of the alleged injury, the teacher, supervisor, administrator, service personnel employee,  
16 county superintendent, school board member, volunteer worker or student teacher or employee  
17 or officer of the ~~Department~~ Division of Corrections was acting in the discharge of his or her duties,  
18 within the scope of his or her office, position or employment, under the direction of the board of  
19 education or Commissioner of Corrections or in an official capacity as a county superintendent or  
20 as a school board member, or as Commissioner of Corrections.

21 (c) Insurance coverage provided by the Board of Risk and Insurance Management  
22 pursuant to subsection (a) of this section shall be in an amount to be determined by the State  
23 Board of Risk and Insurance Management, but in no event less than \$1 million for each  
24 occurrence. In addition, each county board of education shall purchase, through the Board of Risk  
25 and Insurance Management, excess coverage of at least \$5 million for each occurrence. The cost  
26 of this excess coverage will be paid by the respective county boards of education. Any insurance  
27 purchased under this section shall be obtained from a company licensed to do business in this  
28 state.

29 (d) The insurance policy provided by the Board of Risk and Insurance Management  
30 pursuant to subsection (a) of this section shall include comprehensive coverage, personal injury  
31 coverage, malpractice coverage, corporal punishment coverage, legal liability coverage as well  
32 as a provision for the payment of the cost of attorney's fees in connection with any claim, demand,  
33 action, suit or judgment arising from such alleged negligence or other act resulting in bodily injury  
34 under the conditions specified in this section.

35 (e) The county superintendent, volunteer worker or student teacher and other school  
36 personnel shall be defended by the county board or an insurer in the case of suit, unless the act  
37 or omission ~~shall not have been~~ was not within the course or scope of employment or official  
38 responsibility or was motivated by malicious or criminal intent.

39 (f) For the purposes of this section, "volunteer worker" includes, but is not limited to, a  
40 licensed health care professional, as referred to in section twenty-five-a, article two, chapter

41 eighteen of this code, who is providing health care services free of charge at a county board of  
42 education facility or event. A licensed care professional who is a volunteer worker is not liable for  
43 any civil damages as a result of rendering those services, or as a result of any act or failure to act  
44 in providing or arranging further medical treatment, in accordance with acceptable standards of  
45 care, to an extent greater than the applicable limits of the professional liability insurance provided  
46 by the Board of Risk and Insurance Management pursuant to this section and in effect at the time.

NOTE: The purpose of this bill is to explicitly include volunteer workers and student teachers under the coverage of the Board of Risk and Insurance Management and to limit the liability for volunteer workers who are licensed health care professionals that render services to the limits of the Board of Risk and Insurance Management policy.

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