

WEST VIRGINIA LEGISLATURE

2020 REGULAR SESSION

ENROLLED

House Bill 4496

BY DELEGATES SHOTT, CRISS, GRAVES, STEELE,
HOWELL, D. KELLY, MILLER, N. BROWN, MAYNARD,

MANDT AND FAST

(BY REQUEST OF THE DEPARTMENT OF MILITARY AFFAIRS
AND PUBLIC SAFETY)

[Passed February 4, 2020; in effect ninety days from
passage.]

1 AN ACT to amend and reenact §29-12-5a of the Code of West Virginia, 1931, as amended,
2 relating to removing the specific mandate of the Board of Risk and Insurance Management
3 to purchase liability insurance for the Division of Corrections and Rehabilitation and its
4 employees.

Be it enacted by the Legislature of West Virginia:

ARTICLE 12. STATE INSURANCE.

**§29-12-5a. Liability insurance for county boards of education, their employees and
members, the county superintendent of schools, and public charter schools
electing to obtain coverage; written notice of coverage to insureds.**

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: *Provided*, That the Board of Risk
5 and Insurance Management is not required to provide insurance for every property, activity, or
6 responsibility of county boards of education, teachers, supervisory, and administrative staff
7 members, service personnel, county superintendents of schools, and school board members.

8 (b) Insurance provided by the Board of Risk and Insurance Management pursuant to the
9 provisions of subsection (a) of this section shall cover claims, demands, actions, suits, or
10 judgments by reason of alleged negligence or other acts resulting in bodily injury or property
11 damage to any person within or without any school building if, at the time of the alleged injury, the
12 teacher, supervisor, administrator, service personnel employee, county superintendent, or school
13 board member was acting in the discharge of his or her duties, within the scope of his or her
14 office, position or employment, under the direction of the county board of education, or in an
15 official capacity as a county superintendent or as a school board member.

16 (c) Insurance coverage provided by the Board of Risk and Insurance Management
17 pursuant to subsection (a) of this section shall be in an amount to be determined by the State

18 Board of Risk and Insurance Management, but in no event less than \$1,250,000 for each
19 occurrence. In addition, each county board of education shall purchase, through the Board of Risk
20 and Insurance Management, excess coverage of at least \$5 million for each occurrence. The cost
21 of this excess coverage will be paid by the respective county boards of education. Any insurance
22 purchased under this section shall be obtained from a company licensed to do business in this
23 state.

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

30 (e) The county superintendent and other school personnel shall be defended by the county
31 board or an insurer in the case of suit, unless the act or omission shall not have been within the
32 course or scope of employment or official responsibility or was motivated by malicious or criminal
33 intent.

34 (f) At least annually, beginning with the 2019-2020 school year, county boards shall
35 provide written notice of insurance coverage to each of its insureds, including teachers,
36 supervisors, administrators, service personnel employees, county superintendent, and school
37 board members. The notice shall identify the coverages, monetary limits of insurance, and duty
38 to defend for each occurrence as provided to insureds by the Board of Risk and Insurance
39 Management under this section. The written notice may be sent via email, or via first-class mail
40 to the insured's last mailing address known to the county board. The written notice shall also
41 include contact information for the Board of Risk and Insurance Management.

42 (g) The provisions of this section apply to public charter schools that have been authorized
43 pursuant to §18-5G-1 *et seq.* of this code and have included in their charter contract entered into

44 pursuant to §18-5G-7 of this code a determination to obtain insurance coverage from the Board
45 of Risk and Insurance Management pursuant to this section. If a public charter school elects to
46 obtain coverage pursuant to this section:

47 (1) Any provision in this section applicable to a county board also applies to a charter
48 school governing board;

49 (2) Any provision in this section applicable to a school board member also applies to a
50 member of a charter school governing board; and

51 (3) Any provision of this section applicable to teachers, supervisory and administrative
52 staff members, and service personnel employed by a county board also applies to teachers,
53 supervisory or administrative staff members, and service personnel employed by a public charter
54 school.

55 (h) The amendments to this section during the 2019 First Extraordinary Session of the
56 Legislature shall be effective for fiscal years beginning on or after July 1, 2019: *Provided*, That
57 the amendment to subsection (c) of this section during the 2019 First Extraordinary Session of
58 the Legislature shall be effective for fiscal years beginning on or after July 1, 2020.

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

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Chairman, House Committee

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Chairman, Senate Committee

Originating in the House.

In effect ninety days from passage.

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Clerk of the House of Delegates

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Clerk of the Senate

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Speaker of the House of Delegates

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President of the Senate

The within this the.....
day of, 2020.

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Governor