

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]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,
2 designated §49-2-130, relating to child placing agencies; requiring a policy of insurance;
3 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.

1 (a) Every child placing agency shall obtain a policy of insurance in an amount not less than
2 \$1 million per incident insuring the person or entity and every employee, against loss from the
3 liability imposed by law for damages arising from any error or omission in the provision of child
4 placement services.

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

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

11 (d) Any person or entity who fails to secure a policy of insurance before providing child
12 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.