

WEST VIRGINIA LEGISLATURE

2023 REGULAR SESSION

ENROLLED

House Bill 3439

BY DELEGATES PINSON, WESTFALL AND BURKHAMMER

[Passed March 11, 2023; in effect ninety days from passage.]

1 AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,
2 designated §49-2-130, relating to child welfare agencies; requiring a policy of insurance;
3 limiting civil liability for damages or injuries; providing exceptions; and requiring proof of
4 insurance be filed annually.

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

5 (b) A child welfare agency providing programs or services is not liable for civil damages in
6 excess of \$1,000,000, per incident, unless the damages or injuries are intentionally or maliciously
7 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.

13 (e) An act of sexual assault or sexual abuse shall constitute an incident.

The Clerk of the House of Delegates and the Clerk of the Senate hereby certify that the foregoing bill is correctly enrolled.

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Clerk of the House of Delegates

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Clerk of the Senate

Originated in the House of Delegates.

In effect ninety days from passage.

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Speaker of the House of Delegates

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President of the Senate

The within is this the.....
Day of, 2023.

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Governor