WEST VIRGINIA LEGISLATURE

2025 REGULAR SESSION

Introduced

House Bill 2556

By Delegates Burkhammer and Pinson

[Introduced February 18, 2025; referred to the Committee on the Judiciary]

A BILL to amend and reenact §49-2-205 of the Code of West Virginia, 1931, as amended, relating to qualified immunity for employees of a private child welfare agency or provider.

Be it enacted by the Legislature of West Virginia:

ARTICLE 2. STATE RESPONSIBILITIES FOR CHILDREN.

**§49-2-205. Service delivery through service contracts; accountability.**

(a)The services required by this article which are not practically deliverable directly from the department may be subcontracted to professionally qualified private individuals, associations, agencies, corporations, partnerships or groups. The service provider shall be required to submit monthly activity reports as to any services rendered to the department of human services. The activity reports shall include project evaluation in relation to individual families being served as well as statistical data concerning families that are referred to services which are not served due to unavailability of resources. The costs of program evaluation are an allowable cost consideration in any service contract negotiated in accordance with this article. The department shall conduct a thorough investigation of the contractors utilized by the department pursuant to this article.

(b) No employee of a private child welfare agency or provider may be held personally liable for any professional decision or action taken pursuant to that decision in the performance of his or her official duties as set forth in this section or agency rules promulgated thereupon. However, nothing in this subsection protects any employee of a private child welfare agency or provider from any liability arising from any loss caused by gross negligence, willful and wanton misconduct, or intentional misconduct.

NOTE: The purpose of this bill is to extend qualified immunity to employees of private child welfare agency or provider.

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