

Senate Bill No. 410

(By Senators Stollings, Prezioso, Plymale, Woelfel, Williams, Unger, Takubo, Ferns, Gaunch, D. Hall, Beach, Carmichael, Kessler, Kirkendoll, Palumbo and Nohe)

[Introduced February 4, 2015; referred to the Committee on the Judiciary; and then to the Committee on Finance.]

**FISCAL
NOTE**

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

Be it enacted by the Legislature of West Virginia:

That §29-12-5a of the Code of West Virginia, 1931, as amended, be amended and 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 Division of Corrections.

(a) In accordance with the provisions of this article, the state Board of Risk and Insurance Management shall provide appropriate professional or other liability insurance for all county boards

1 of education, teachers, supervisory and administrative staff members, service personnel, county
2 superintendents of schools, ~~and~~ school board members, volunteer workers and student teachers and
3 for all employees and officers of the state ~~Department~~ Division of Corrections: *Provided*, That the
4 Board of Risk and Insurance Management is not required to provide insurance for every property,
5 activity or responsibility of county boards of education, teachers, supervisory and administrative staff
6 members, service personnel, county superintendents of schools, ~~and~~ school board members, volunteer
7 workers and student teachers and for all employees and officers of the ~~state Department~~ Division of
8 Corrections.

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

19 (c) Insurance coverage provided by the board of Risk and Insurance Management pursuant
20 to subsection (a) of this section shall be in an amount to be determined by the state Board of Risk and
21 Insurance Management, but in no event less than \$1 million for each occurrence. In addition, each
22 county board of education shall purchase, through the board of Risk and Insurance Management,

1 excess coverage of at least \$5 million for each occurrence. The cost of this excess coverage will be
2 paid by the respective county boards of education. Any insurance purchased under this section shall
3 be obtained from a company licensed to do business in this state.

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

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

14 (f) For the purposes of this section, “volunteer worker” includes, but is not limited to, a
15 licensed health care professional as defined in section twenty-five-a, article two, chapter eighteen of
16 this code. A licensed health care professional is not liable for any civil damages as a result of
17 rendering those services, or as a result of any act or failure to act in providing or arranging further
18 medical treatment, in accordance with acceptable standards of care, to an extent greater than the
19 applicable limits of the professional liability insurance provided by the Board of Risk and Insurance
20 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 the present law, and underscoring indicates new language that would be added.