

WEST VIRGINIA LEGISLATURE

2020 REGULAR SESSION

ENGROSSED

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)

[Introduced January 23, 2020; Referred to the
Committee on the Judiciary.]

1 A BILL to amend and reenact §29-12-5a of the Code of West Virginia, 1931, as amended, relating
2 to removing the specific mandate of the Board of Risk and Insurance Management to
3 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; ~~and for employees and officers of the state Division of
Corrections and Rehabilitation~~ 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: ~~and for all employees and officers
5 of the State Division of Corrections and Rehabilitation~~ *Provided*, That the Board of Risk and
6 Insurance Management is not required to provide insurance for every property, activity, or
7 responsibility of county boards of education, teachers, supervisory, and administrative staff
8 members, service personnel, county superintendents of schools, and school board members. ~~and
9 for all employees and officers of the state Division of Corrections and Rehabilitation~~

10 (b) Insurance provided by the Board of Risk and Insurance Management pursuant to the
11 provisions of subsection (a) of this section shall cover claims, demands, actions, suits, or
12 judgments by reason of alleged negligence or other acts resulting in bodily injury or property
13 damage to any person within or without any school building ~~or correctional institution~~ if, at the
14 time of the alleged injury, the teacher, supervisor, administrator, service personnel employee,
15 county superintendent, or school board member, ~~or employee or officer of the Division of
16 Corrections and Rehabilitation~~ was acting in the discharge of his or her duties, within the scope

17 of his or her office, position or employment, under the direction of the county board of education,
18 ~~or Commissioner of Corrections~~ or in an official capacity as a county superintendent or as a school
19 board member. ~~or as Commissioner of Corrections~~

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

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

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

38 (f) At least annually, beginning with the 2019-2020 school year, county boards shall
39 provide written notice of insurance coverage to each of its insureds, including teachers,
40 supervisors, administrators, service personnel employees, county superintendent, and school
41 board members. The notice shall identify the coverages, monetary limits of insurance, and duty
42 to defend for each occurrence as provided to insureds by the Board of Risk and Insurance

43 Management under this section. The written notice may be sent via email, or via first-class mail
44 to the insured's last mailing address known to the county board. The written notice shall also
45 include contact information for the Board of Risk and Insurance Management.

46 (g) The provisions of this section apply to public charter schools that have been authorized
47 pursuant to §18-5G-1 *et seq.* of this code and have included in their charter contract entered into
48 pursuant to §18-5G-7 of this code a determination to obtain insurance coverage from the Board
49 of Risk and Insurance Management pursuant to this section. If a public charter school elects to
50 obtain coverage pursuant to this section:

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

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

55 (3) Any provision of this section applicable to teachers, supervisory and administrative
56 staff members, and service personnel employed by a county board also applies to teachers,
57 supervisory or administrative staff members, and service personnel employed by a public charter
58 school.

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

NOTE: The purpose of this bill is to remove the reference to the Division of Corrections and Rehabilitation from this section.

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