

# **WEST VIRGINIA LEGISLATURE**

**2017 REGULAR SESSION**

**Committee Substitute**

**for**

**Senate Bill 40**

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[Originating in the Committee on Health and Human  
Resources; reported on February 17, 2017]



1 A BILL to amend and reenact §18-9F-9 of the Code of West Virginia, 1931, as amended, relating  
2 to requiring that the State Board of Education include, in the legislative rule on a model  
3 school crisis plan that it promulgates, certain protocols for responding to injuries and other  
4 medical emergencies on school property after normal school hours in school crisis  
5 response plans by certain date; providing the applicability and requirements of those  
6 protocols as they apply to sports injuries; setting forth a limitation of liability; and providing  
7 for an effective date.

*Be it enacted by the Legislature of West Virginia:*

1 That §18-9F-9 of the Code of West Virginia, 1931, as amended, be amended and  
2 reenacted to read as follows:

**ARTICLE 9F. SCHOOL ACCESS SAFETY ACT.**

**§18-9F-9. Crisis response plan.**

1 (a) The state board in conjunction with the Division of Homeland Security and Emergency  
2 Management shall promulgate ~~by December 31, 2014~~ a legislative rule in accordance with article  
3 three-b, chapter twenty-nine-a of this code ~~and if necessary may promulgate an emergency rule~~  
4 ~~in accordance with said article~~ for the establishment of an up-to-date, school-specific crisis  
5 response plan at every school in the state. In developing the rule, the state board shall consider  
6 plans currently being developed as part of the safe schools initiative currently underway by the  
7 School Building Authority and the Division of Homeland Security and Emergency Management.  
8 In addition, those portions of a school's access safety plan created pursuant to section three of  
9 this article may be used as a portion of the school's school-specific crisis response plan if there  
10 are any overlapping requirements. The rule shall provide for at least the following:

11 (1) A model school crisis response plan for use by each school in the state, including a  
12 uniform template which shall be used by each school to file the plan, including at least the  
13 following information, in a secure electronic system identified by the Division of Homeland  
14 Security and Emergency Management:

15 (A) The school employee in charge during a crisis and a designated substitute;

16 (B) A communication plan to be used during a crisis;

17 (C) Protocols for responding to immediate physical harm of students, faculty or staff and  
18 to traumatic events, including the period after the events have concluded;

19 (D) Disaster and emergency procedures to respond to earthquakes, fire, flood, other  
20 natural disasters, explosions or other events or conditions in which death or serious injury is likely;

21 (E) Crisis procedures for safe entrance to and exit from the school by students, parents,  
22 and employees, including an evacuation and lock-down plan; ~~and~~

23 (F) Policies and procedures for enforcing school discipline and maintaining a safe and  
24 orderly environment during the crisis; and

25 (G) No later than August 1, 2017, protocols for responding to sports injuries that occur on  
26 school property after normal school hours during school-sponsored sports events which shall  
27 include practices. The sports injury protocols shall include directives for personnel or equipment  
28 which should be available on sports fields or in school buildings for both girls' and boys' teams as  
29 well as training needed for school or volunteer personnel on an as needed basis.

30 (2) A licensed health care professional who renders services of a medical nature to  
31 students and:

32 (A) Has an agreement with a county board of education that defines the scope of his or  
33 her duties as such; and

34 (B) For which no remuneration is demanded or received;  
35 is not liable for any civil damages as a result of rendering such services, or as a result of any act  
36 or failure to act in providing or arranging further medical treatment. The limitation of liability only  
37 applies if the services are provided in accordance with acceptable standards of care and the  
38 licensed health care provider is not grossly negligent or does not demonstrate willful misconduct.  
39 Any liability is limited to the applicable limits of the professional liability insurance provided by the  
40 State Board of Risk and Insurance Management in effect at the time.

41 (C) Nothing in this subsection nullifies the immunity from civil liability as granted pursuant  
42 to section fifteen, article seven, chapter fifty-five of this code or federal law except to the extent to  
43 which the actions are covered within the applicable limits of the professional liability insurance  
44 provided by the State Board of Risk and Insurance Management pursuant to this section and in  
45 effect at the time.

46 ~~(2)~~ (3) A requirement that each school's school-specific crisis response plan shall be in  
47 place and filed with that school's county board, and included in a secure electronic system  
48 identified by the Division of Homeland Security and Emergency Management, no later than  
49 August 1, ~~2013~~ 2017, or soon after completion by the school, whichever occurs first;

50 ~~(3)~~ (4) The necessary safeguards to protect information contained in each school-specific  
51 crisis response plan that may be considered protected critical infrastructure information, law  
52 enforcement sensitive information or for official use only. These safeguards must have the  
53 approval of the Division of Homeland Security and Emergency Management. County boards shall  
54 provide the same necessary safeguards for the information in the plan;

55 ~~(4)~~ (5) The annual review and necessary update of the model plan and uniform template  
56 by state board in conjunction with the Division of Homeland Security and Emergency  
57 Management by December 31 of each year after ~~2014~~ 2017;

58 ~~(5)~~ (6) The development by each school of a school specific crisis response plan by using  
59 the state board's model plan as an example and with consultation from local social services  
60 agencies, local first response agencies including police, fire, emergency medical services (EMS),  
61 emergency management and any other local entities that the school's crisis response planning  
62 team determines should be consulted;

63 ~~(6)~~ (7) Procedures for the annual review and update if necessary by each school of its  
64 school-specific crisis response planning plan. Each school shall file either an updated crisis  
65 response plan or a memorandum stating that no update to the crisis response plan was necessary

66 with its county board and the Division of Homeland Security and Emergency Management no  
67 later than August 1 of each year after ~~2013~~ 2017;

68 ~~(7)~~ (8) Procedures for each school within the state to form a crisis response planning team,  
69 which team may consist of the school's local school improvement council or a separate team  
70 consisting of the principal, two teachers, one service person and two parents of children attending  
71 the school. In addition, the school may include on the team one member of the county board, a  
72 school counselor, a member from local law-enforcement authorities, the local county emergency  
73 services director and one student in grade ten or higher if the school has those grades;

74 ~~(8)~~ (9) Procedures for informing and training school personnel on any actions required of  
75 them to effectuate the school's school-specific crisis response plan;

76 ~~(9)~~ (10) A model template for redacted copies of the school crisis response plan for the  
77 public inspection and for the release and notice to parents of information related to the plan; and

78 ~~(10)~~ (11) Procedures for nonpublic schools to establish, file and update school crisis  
79 response plans consistent with subdivision (1) ~~subsection (a)~~ of this section subsection.

80 (b) The county board shall keep the current crisis response plan of each school in the  
81 county on file and, unless otherwise provided for, provide a copy of each school's crisis response  
82 plan to each local emergency response agency that has a role in the plan. Local emergency  
83 response agencies that maintain a copy of the plan shall provide the necessary safeguards for  
84 the information in the plan established pursuant to the state board rule promulgated pursuant to  
85 subsection (a) of this section. Upon request, a redacted copy of a school crisis response plan  
86 shall be made available for inspection by the public with any information removed that is  
87 necessary for compliance with the necessary safeguards. Following the filing of its school specific  
88 crisis response plan with the county board pursuant to subdivision (2), subsection (a) of this  
89 section, each school shall annually send notice home to all parents and guardians of students at  
90 the school alerting the parents and guardians to the existence of the plan and the ability to review  
91 a redacted copy at the offices of the county board.

CS for SB 40

NOTE: The purpose of this bill is to require protocols for responding to after-school injuries or emergencies to be included in school crisis response plans.

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