

# **WEST VIRGINIA LEGISLATURE**

## **2025 REGULAR SESSION**

**Introduced**

### **Senate Bill 529**

By Senator Weld

[Introduced February 19, 2025; referred  
to the Committee on Education; and then to the  
Committee on Finance]

1 A BILL to amend and reenact §18-5-19d and §29-12-5a of the Code of West Virginia, 1931, as  
2 amended, relating to setting a minimum amount of insurance that county boards of  
3 education must maintain.

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

## **CHAPTER 18. EDUCATION.**

### **ARTICLE 5. COUNTY BOARD OF EDUCATION.**

#### **§18-5-19d. Conditional immunity from liability for community activities; liability insurance; authority of State Board of Risk and Insurance Management.**

1 (a)(1) If the requirements of this subsection are met, the board of education is not liable  
2 under any theory of vicarious or imputed liability for the acts or omissions of:

3 (A) Any person, organization or association using school property for a community activity  
4 described in section nineteen of this article;

5 (B) Any member, employee or agent of such person, organization or association; or

6 (C) Any person attending or participating in the community activity other than an employee  
7 of the board while acting within the scope of employment.

8 (2) The limitation of liability extended the board of education pursuant to this subsection  
9 does not apply unless:

10 (A) The person, organization or association using school property for a community activity  
11 has in effect, at the time of the act or omission described in subdivision (1) of this subsection, a  
12 contract of insurance which provides general comprehensive liability coverage of any claim,  
13 demand, action, suit or judgment by reason of alleged negligence or other acts resulting in bodily  
14 injury or property damage to any person arising out of the use of school property for a community  
15 activity described in subdivision (1) of this subsection;

16 (B) The contract of insurance provides for the payment of any attorney fees, court costs  
17 and other litigation expenses incurred by the board in connection with any claim, demand, action,

18 suit or judgment arising from such alleged negligence or other act; and

19 (C) ~~The insurance coverage is in the amounts specified in the provisions of section five-a,~~  
20 ~~article twelve, chapter twenty-nine of this code.~~ Liability insurance coverage in an amount of not  
21 less than \$1 million for each occurrence as well as excess coverage of at least \$5 million for each  
22 occurrence. Any insurance purchased under this section shall be obtained from a company  
23 licensed to do business in this state.

24 (3)(A) The insurance described in subdivision (2) of this subsection may be obtained  
25 privately or may be obtained pursuant to the provisions of this subdivision. If requested by any  
26 person, organization or association seeking such insurance coverage, the State Board of Risk and  
27 Insurance Management is authorized to provide such insurance and to enter into any necessary  
28 contract of insurance to further the intent of this subdivision.

29 (B) Where provided by the State Board of Risk and Insurance Management, the cost of the  
30 insurance, as determined by the such board, shall be paid by the person, organization or  
31 association and may include administrative expenses. All funds received by such board shall be  
32 deposited with the West Virginia Board of Investments for investment purposes.

33 (C) The State Board of Risk and Insurance Management is hereby authorized and  
34 empowered to negotiate and effect settlement of any and all claims covered by the insurance  
35 provided by such board pursuant to this subdivision to the extent the board is authorized and  
36 empowered to negotiate and effect settlement of claims described in §29-12-5 of this code.

37 (4) As used in this subsection, "organization" or "association" means a bona fide, not for  
38 profit, tax-exempt, benevolent, educational, philanthropic, humane, patriotic, civic, eleemosynary,  
39 incorporated or unincorporated association or organization or a rescue unit or other similar  
40 volunteer community service organization or association, but does not include any nonprofit  
41 association or organization, whether incorporated or not, which is organized primarily for the  
42 purposes of influencing legislation or advocating or opposing the nomination, election or defeat of  
43 any candidate, or the passage or defeat of any issue, thing or item to be voted upon.

(b) In addition to the liability protection for organized use outlined in this section, county boards are not liable for any loss or injury arising from the use of school property made available for unorganized recreation. County boards are liable for their acts or omissions which constitute gross negligence or willful and wanton conduct which is the proximate cause of injury or property damage.

(c) Nothing in this section shall affect the rights, duties, defenses, immunities or causes of action under other statutes or the common law of this state which may be applicable to boards of education.

## **CHAPTER 29. MISCELLANEOUS BOARDS AND OFFICERS.**

### **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; written notice of coverage to insureds.**

(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 of education, teachers, supervisory and administrative staff members, service personnel, county superintendents of schools, and school board members: *Provided*, That the Board of Risk and Insurance Management is not required to provide insurance for every property, activity, or responsibility of county boards of education, teachers, supervisory, and administrative staff members, service personnel, county superintendents of schools, and school board members.

(b) Insurance provided by the Board of Risk and Insurance Management pursuant to the provisions of subsection (a) of this section shall cover claims, demands, actions, suits, or judgments by reason of alleged negligence or other acts resulting in bodily injury or property damage to any person within or without any school building if, at the time of the alleged injury, the teacher, supervisor, administrator, service personnel employee, county superintendent, or school

board member was acting in the discharge of his or her duties, within the scope of his or her office, position or employment, under the direction of the county board of education, or in an official capacity as a county superintendent or as a school board member.

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

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

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

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

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

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

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

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

51 (3) Any provision of this section applicable to teachers, supervisory and administrative staff  
52 members, and service personnel employed by a county board also applies to teachers,  
53 supervisory or administrative staff members, and service personnel employed by a public charter  
54 school.

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

NOTE: The purpose of this bill is to change the minimum amount of insurance that county boards of education must maintain.

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