

# **WEST VIRGINIA LEGISLATURE**

## **2026 REGULAR SESSION**

**Introduced**

### **House Bill 4542**

By Delegate Burkhammer

[Introduced January 19, 2026; referred to the

Committee on the Judiciary]

1 A BILL to amend and reenact §49-2-205 of the Code of West Virginia, 1931, as amended, relating  
2 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.**

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

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

NOTE: The purpose of this bill is to extend conditional protection 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.