

# **WEST VIRGINIA LEGISLATURE**

## **2026 REGULAR SESSION**

**Introduced**

### **Senate Bill 779**

By Senator Rucker

[Introduced February 5, 2026; referred  
to the Committee on Education]

1 A BILL to amend and reenact §49-2-113 of the Code of West Virginia, 1931, as amended, relating  
2 to exempting two county boards of education that are a part of a child care center or facility  
3 pilot for school personnel employed by the county from certain licensure, approval,  
4 certification, and registration-related requirements; requiring the State Superintendent of  
5 Schools to select for the pilot the first two counties that apply and demonstrate that they are  
6 financially capable of participating in the pilot; establishing the term of the pilot to be for two  
7 years; and requiring a report to the Legislative Oversight Commission on Education  
8 Accountability at the conclusion of the two years.

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

**ARTICLE 2. STATE RESPONSIBILITIES FOR CHILDREN.**

**§49-2-113. Residential child-care centers; licensure, certification, approval, and  
registration; requirements.**

1 (a) Any person, corporation, or child welfare agency, other than a state agency, which  
2 operates a residential child-care center shall obtain a license from the department.

3 (b) Any residential child-care facility, day-care center, or any child-placing agency operated  
4 by the state shall obtain approval of its operations from the secretary.

5 (c) Any family day-care facility which operates in this state, including family day-care  
6 facilities approved by the department for receipt of funding, shall obtain a statement of certification  
7 from the department.

8 (d) Every family day-care home which operates in this state, including family day-care  
9 homes approved by the department for receipt of funding, shall obtain a certificate of registration  
10 from the department. The facilities and placing agencies shall maintain the same standards of care  
11 applicable to licensed facilities, centers, or placing agencies of the same category.

12 (e) This section does not apply to:

13 (1) A kindergarten, preschool, or school education program which is operated by a public  
14 school or which is accredited by the West Virginia Department of Education or any other

15 kindergarten, preschool, or school programs which operate with sessions not exceeding four  
16 hours per day for any child;

17 (2) An individual or facility which offers occasional care of children for brief periods while  
18 parents are shopping, engaging in recreational activities, attending religious services, or engaging  
19 in other business or personal affairs;

20 (3) Summer recreation camps operated for children attending sessions for periods not  
21 exceeding 30 days;

22 (4) Hospitals or other medical facilities which are primarily used for temporary residential  
23 care of children for treatment, convalescence, or testing;

24 (5) Persons providing family day care solely for children related to them;

25 (6) Any juvenile detention facility or juvenile correctional facility operated by or under  
26 contract with the Division of Corrections and Rehabilitation for the secure housing or holding of  
27 juveniles committed to its custody;

28 (7) Any out-of-school time program that has been awarded a grant by the West Virginia  
29 Department of Education to provide out-of-school time programs to kindergarten through 12th  
30 grade students when the program is monitored by the West Virginia Department of Education;

31 (8) Any out-of-school time program serving children six years of age or older and meets all  
32 of the following requirements, or is an out-of-school time program that is affiliated and in good  
33 standing with a national congressionally chartered organization or is an out-of-school time,  
34 summer recreation camp, or day camp program operated by a county parks and recreation  
35 commission, boards, and municipalities and meets all of the following requirements:

36 (A) The program is located in a facility that meets all fire and health codes;

37 (B) The program performs state and federal background checks on all volunteers and staff;

38 (C) The program's primary source of funding is not from fees for service except for  
39 programs operated by county parks and recreation commissions, boards, and municipalities; and

40 (D) The program has a formalized monitoring system in place; or

41 (9) Any kindergarten, preschool, or school education program which is operated by a  
42 private, parochial, or church school that is recognized by the West Virginia Department of  
43 Education under Policy 2330; or

44 (10) Any county board of education that participates in a pilot that allows the board to be  
45 exempt from this section for the purpose of running a childcare center or facility for school  
46 personnel employed by the county. The State Superintendent of Schools shall select for the pilot  
47 the first two counties that apply and demonstrate that they are financially capable of participating in  
48 the pilot. The term for the pilot shall be two years. At the conclusion of the two years, the State  
49 Superintendent, his or her representative from the West Virginia Department of Education, or  
50 representatives of the counties designated for the pilot, shall report to the Legislative Oversight  
51 Commission on Education Accountability information on the feasibility of permanently exempting  
52 all county boards of education from this section for the purpose of running a childcare center or  
53 facility for school personnel employed by the county and implementing such a childcare center or  
54 facility in all counties.

55 (f) The secretary is authorized to issue an emergency rule relating to conducting a survey  
56 of existing facilities in this state in which children reside on a temporary basis in order to ascertain  
57 whether they should be subject to licensing under this article or applicable licensing provisions  
58 relating to behavioral health treatment providers.

59 (g) Any informal family child-care home or relative family child-care home may voluntarily  
60 register and obtain a certificate of registration from the department.

61 (h) All facilities or programs that provide out-of-school time care shall register with the  
62 department upon commencement of operations and on an annual basis thereafter. The  
63 department shall obtain information such as the name of the facility or program, the description of  
64 the services provided, and any other information relevant to the determination by the department  
65 as to whether the facility or program meets the criteria for exemption under this section.

66 (i) Any child-care service that is licensed or receives a certificate of registration shall have a

67 written plan for evacuation in the event of fire, natural disaster, or other threatening situation that  
68 may pose a health or safety hazard to the children in the child-care service.

69 (1) The plan shall include, but not be limited to:

70 (A) A designated relocation site and evacuation;

71 (B) Procedures for notifying parents of the relocation and ensuring family reunification;

72 (C) Procedures to address the needs of individual children including children with special  
73 needs;

74 (D) Instructions relating to the training of staff or the reassignment of staff duties, as  
75 appropriate;

76 (E) Coordination with local emergency management officials; and

77 (F) A program to ensure that appropriate staff are familiar with the components of the plan.

78 (2) A child-care service shall update the evacuation plan by December 31 of each year. If a  
79 child-care service fails to update the plan, no action shall be taken against the child-care services  
80 license or registration until notice is provided and the child-care service is given 30 days after the  
81 receipt of notice to provide an updated plan.

82 (3) A child-care service shall retain an updated copy of the plan for evacuation and shall  
83 provide notice of the plan and notification that a copy of the plan will be provided upon request to  
84 any parent, custodian, or guardian of each child at the time of the child's enrollment in the child-  
85 care service and when the plan is updated.

86 (4) All child-care centers and family child-care facilities shall provide the plan and each  
87 updated copy of the plan to the Director of the Office of Emergency Services in the county where  
88 the center or facility is located.

89 (j) A residential child-care center which has entered into a contract with the department to  
90 provide services to a certain number of foster children, shall accept any foster child who meets the  
91 residential child-care center's program criteria, if the residential child-care center has not met its  
92 maximum capacity as provided for in the contract. Any residential child-care center which has

- 93 entered into a contract with the department may not discharge any child in its program, except as  
94 provided in the contract, including that if the youth does not meet the residential treatment level  
95 and target population, the provider shall request a MDT and work toward an alternative placement.

NOTE: The purpose of this bill is to exempt two county boards of education that are a part of a childcare center or facility pilot for school personnel employed by the county from certain licensure, approval, certification, and registration related requirements; require the State Superintendent of Schools to select for the pilot the first two counties that apply and demonstrate that they are financially capable of participating in the pilot; establish the term of the pilot to be for two years; and require a report to the Legislative Oversight Commission on Education Accountability at the conclusion of the two years.

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