WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1980

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ENROLLED

HOUSE BILL No. 1272

(By Mr. Fairly)

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Passed March 7, 1980

In Effect July 1, 1980

No. 1272
AN ACT to amend article twelve, chapter twenty-nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section five-a, relating to authorizing state board of insurance to provide professional or other liability insurance coverage for all county board of education employees and members and for all employees and officers of the state department of corrections; specifying minimum amount of coverage, and requiring insurer to waive defense of governmental immunity.

Be it enacted by the Legislature of West Virginia:

That article twelve, chapter twenty-nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new section, designated section five-a, to read as follows:

ARTICLE 12. STATE INSURANCE.

§29-12-5a Liability insurance for county board of education employees and members and for employees and officers of the state department of corrections.

In accordance with the provisions of this article, the state board of insurance shall have authority to provide appropriate professional or other liability insurance for all county board of education teachers, supervisory and administrative staff members, service personnel, auxiliary personnel and school board members and for all employees and officers of the state department of corrections. If provided, said insurance shall cover any claim, demand, action, suit or judgment by reason
of alleged negligence or other acts resulting in bodily injury or property damage to any person within or without any school building or correctional institution if, at the time of the alleged injury, the teacher, supervisor, administrator, service or auxiliary personnel employee, school board member, or employee or officer of the department of corrections was acting in the discharge of his duties, within the scope of his office, position or employment, under the direction of the board of education or commissioner of corrections or in an official capacity as a school board member or as commissioner of corrections. If provided, such insurance coverage shall be in an amount to be determined by the state board of insurance, but in no event less than one million dollars for each occurrence.

The insurance policy 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.

No policy or contract of liability insurance shall be purchased as provided herein, unless it shall contain a provision or endorsement whereby the company issuing such policy waives, or agrees not to assert as a defense to any claim covered by the terms of such policy, the defense of governmental immunity. In any action against a person covered by insurance furnished pursuant to this section, when there is in effect liability insurance coverage for such person in an amount equal to or greater than the amount sued for, the attorney for such person, the attorney for such insurance company, or any other attorney who may appear on behalf of such person or insurance company shall not set up the defense of governmental immunity in any such action.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

James L. Davis
Chairman Senate Committee

Clarence C. Christi
Chairman House Committee

Originated in the House.

Takes effect July 1, 1980.

J. D. Wells
Clerk of the Senate

C. A. Blankenship
Clerk of the House of Delegates

M. T. White, Jr.
President of the Senate

J. B. Mader
Speaker House of Delegates

The within __________ is approved this the __________ day of __________, 1980.

John J. Rodgers
Governor