

APPROVED AND SIGNED BY THE GOVERNOR

Date 3-26-80

Time 12:15 p.m.

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1980

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ENROLLED

HOUSE BILL No. 1272

(By Mr. Fairley)

— ● —

Passed March 7, 1980

In Effect July 1, 1980 ~~Passage~~



No. 1272

ENROLLED

H. B. 1272

(By MR. FARLEY)

[Passed March 7, 1980; in effect July 1, 1980.]

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.

1 In accordance with the provisions of this article, the state
2 board of insurance shall have authority to provide appropriate
3 professional or other liability insurance for all county board
4 of education teachers, supervisory and administrative staff
5 members, service personnel, auxiliary personnel and school
6 board members and for all employees and officers of the state
7 department of corrections. If provided, said insurance shall
8 cover any claim, demand, action, suit or judgment by reason

9 of alleged negligence or other acts resulting in bodily injury or
10 property damage to any person within or without any school
11 building or correctional institution if, at the time of the alleged
12 injury, the teacher, supervisor, administrator, service or auxil-
13 iary personnel employee, school board member, or employee
14 or officer of the department of corrections was acting in the
15 discharge of his duties, within the scope of his office, posi-
16 tion or employment, under the direction of the board of
17 education or commissioner of corrections or in an official
18 capacity as a school board member or as commissioner of cor-
19 rections. If provided, such insurance coverage shall be in an
20 amount to be determined by the state board of insurance, but
21 in no event less than one million dollars for each occurrence.

22 The insurance policy shall include comprehensive coverage,
23 personal injury coverage, malpractice coverage, corporal pun-
24 ishment coverage, legal liability coverage as well as a provi-
25 sion for the payment of the cost of attorney's fees in connec-
26 tion with any claim, demand, action, suit or judgment arising
27 from such alleged negligence or other act resulting in bodily
28 injury under the conditions specified in this section.

29 No policy or contract of liability insurance shall be pur-
30 chased as provided herein, unless it shall contain a provision
31 or endorsement whereby the company issuing such policy
32 waives, or agrees not to assert as a defense to any claim cov-
33 ered by the terms of such policy, the defense of governmental
34 immunity. In any action against a person covered by insur-
35 ance furnished pursuant to this section, when there is in effect
36 liability insurance coverage for such person in an amount
37 equal to or greater than the amount sued for, the attorney for
38 such person, the attorney for such insurance company, or any
39 other attorney who may appear on behalf of such person or
40 insurance company shall not set up the defense of govern-
41 mental 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. Chesterton Jr.
Chairman House Committee

Originated in the House.

Takes effect July 1, 1980.

Irwin C. Nichols
Clerk of the Senate

CA Blankenship
Clerk of the House of Delegates

W. J. Brantley Jr.
President of the Senate

John M. Lee, Jr.
Speaker House of Delegates

The within is approved this the 26
day of March, 1980.

John I. R. [Signature]
Governor

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