

SENATE BILL NO. 228

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee for Courts of Justice

on _____)

(Patron Prior to Substitute—Senator Surovell)

A BILL to amend and reenact § 15.2-1518 of the Code of Virginia, relating to localities; liability insurance; certain waiver of sovereign immunity.

Be it enacted by the General Assembly of Virginia:**1. That § 15.2-1518 of the Code of Virginia is amended and reenacted as follows:****§ 15.2-1518. Liability insurance for officers, employees, and volunteers of local government and members of its boards and commissions and constitutional officers.**

A. Any locality and any political subdivision thereof may provide liability insurance or self-insurance for ~~its fire department operational medical director, police department operational medical director, operational medical director, physician course director for any licensed emergency medical services agency or emergency medical services training program located therein endorsed by the Office of Emergency Medical Services and~~ *for its (i) itself; (ii) any officers, employees, agents, and volunteers, including of such locality or political subdivision; (iii) any commission or board, and employees and members thereof, of such locality or political subdivision; (iv) any authority created or controlled by the local governing body; or of such locality or political subdivision; (v) any local agency or public service corporation owned, operated, or controlled by such local governing body and employees and members thereof; or (vi) any constitutional officers and their employees employed by such locality or political subdivision.*

B. The insurance or self-insurance may cover the costs and expenses incident to liability, including those for settlement, suit, defense, or satisfaction of judgment ~~arising from the conduct for any act or omission of such any persons or entities described in subsection A or operational medical directors, physician course directors, officers, employees, members, or volunteers in the discharge of their official duties that (i) results in a claim for damages for death, personal injury, or property damage; (ii) results in a claim of a civil rights violation or other constitutional tort claim; or (iii) arises from the ownership, maintenance, or use of any motor vehicle owned, leased, or operated by the locality or political subdivision.~~

C. No such locality or political subdivision shall have a duty to defend or indemnify acts or omissions that (i) occur outside the scope of employment or official duties, (ii) were done maliciously, or (iii) are otherwise excluded by the terms of the insurance policy.

D. The provision of liability insurance or self-insurance by any locality or political subdivision pursuant

33 *to this section shall be deemed a waiver of sovereign immunity, governmental immunity, and derivative*
34 *sovereign immunity and any person or entity described in subsection A may be liable for damages in an*
35 *amount not to exceed the combined total of any self-insurance coverage, insurance coverage under a group*
36 *self-insurance pool, or any insurance coverage pursuant to a policy purchased by the locality from an*
37 *insurance company, including any excess or reserve coverage. No judgment or award of damages shall be*
38 *entered against such person or entity described in subsection A in excess of such combined total coverage*
39 *unless the judgment is based on conduct that constitutes gross negligence or willful or wanton misconduct.*

40 *E. Nothing in this section shall be construed to (i) expand the liability of any locality or political*
41 *subdivision beyond what is expressly authorized; (ii) create a cause of action not otherwise available under*
42 *state law; or (iii) affect any rights or obligations under the Virginia Tort Claims Act (§ 8.01-195.1 et seq.).*

43 *F. For the purposes of this section, "physician course director" or "PCD" means an EMS physician who is*
44 *responsible for the clinical aspects of emergency medical care training programs, including the clinical and*
45 *field actions of enrolled students.*