



MIKE CAUSEY
INSURANCE COMMISSIONER

December 30, 2025

SENT VIA ELECTRONIC MAIL

The Honorable Jim Burgin
Chair, Joint Legislative Oversight Committee
on Health and Human Services
Jim.Burgin@ncleg.gov

The Honorable Carla D. Cunningham
Chair, Joint Legislative Oversight Committee
on Health and Human Services
Carla.Cunningham@ncleg.gov

The Honorable Donny Lambeth
Chair, Joint Legislative Oversight Committee
on Health and Human Services
Donny.Lambeth@ncleg.gov

The Honorable Larry W. Potts
Chair, Joint Legislative Oversight Committee
on Health and Human Services
Larry.Potts@ncleg.gov

The Honorable Carl Ford
Chair, Joint Legislative Oversight Committee
on General Government
Carl.Ford@ncleg.gov

The Honorable Donnie Loftis
Chair, Joint Legislative Oversight Committee
on General Government
Donnie.Loftis@ncleg.gov

The Honorable Dennis Riddell
Chair, Joint Legislative Oversight Committee
on General Government
Dennis.Riddell@ncleg.gov

The Honorable John A. Torbett
Chair, Joint Legislative Oversight Committee
on General Government
John.Torbett@ncleg.gov

Re: Session Law 2025-36, Child Care and Community-Based Child-Welfare Workgroup

Dear Chairmen:

Session Law 2025-36 directed the North Carolina Department of Insurance (“NCDOI”) to assemble a Child Care and Community-Based Child-Welfare Workgroup to develop findings and recommendations to the insurance issues that childcare and community-based child-welfare providers face. The law mandated the workgroup address:

- (1) Potential methods for creating group liability insurance plan opportunities for all child care providers.
- (2) Reforms that could reduce group liability insurance plan premiums.
- (3) Tort reforms that could reduce the liability damages of child care providers.

The NCDOI facilitated meetings with stakeholders and presents the report of the Childcare and Community-Based Child-Welfare Workgroup to the Committee Members.

I would like to thank all the members of the workgroup. The report is the product of the members' hard work and represents the different perspectives of the parties involved.

Should you have any questions regarding the report, please contact Charles Whitehead, NCDOI Legislative Attorney at Charles.Whitehead@ncdoi.gov or Thomas Kincheloe, NCDOI Legislative Liaison at Thomas.Kincheloe@ncdoi.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Mike Causey". The signature is fluid and cursive, with the first name "Mike" and last name "Causey" clearly distinguishable.

Mike Causey
North Carolina Commissioner of Insurance

cc: Brian Matteson, Director of Fiscal Research – brian.matteson@ncleg.gov
Katherine Tamer, Fiscal Research-Katherine.Tamer@ncleg.gov
Jacob Sargent, Fiscal Research-jacob.sargent@ncleg.gov
Bridget Edwards, Fiscal Research-bridget.edwards@ncleg.gov

cc: Child Care and Community-Based Child-Welfare Providers Workgroup Members

- John Hardin, President, The Raleigh Group – john@theraleighgroupnc.com
- Will Morgan, Managing Partner, The Raleigh Group – will@theraleighgroupnc.com
- Charles Hodges, Executive Director of the North Carolina Licensed Child Care Association – director@nclcca.org
- Sherry Melton, Senior Consultant, Ken Melton and Associates, LLC – sherry@kenmeltonandassoc.com
- Wes Wooten, President and CEO of the Sunshine House – wwooten@sshhouse.com
- Ketica Cleveland, Regulatory Specialist, Regulatory Services Section at North Carolina Department of Health and Human Services – ketica.cleveland@dhhs.nc.gov
- Alison Keisler, Policy and Planning Program Manager, Regulatory Services Section at North Carolina Department of Health and Human Services – alison.keisler@dhhs.nc.gov
- Matt Fullenbaum, Vice President, Legislative Affairs at the American Tort Reform Association – Mfullenbaum@atra.org
- Nathan Burdette, Director of Government Affairs at the American Tort Reform Association – nburdette@atra.org
- Karen McLeod, CEO, Benchmarks NC – kmcleod@benchmarksnc.org
- Vicki Barringer, CFO, Children's Home Society of North Carolina – vbarringer@chsnc.org
- Sarah Norris, CEO, Crossnore Communities for Children – snorris@crossnore.org
- Jimmy Harmon, President, Black Mountain Home for Children – jharmon@blackmountainhome.com

NCDOI workgroup participants.

- Lori Gorman, Deputy Commissioner, Captive Insurance Companies Division, NC Department of Insurance
- Joe Roesenberger, Chief Captive Analyst, Captive Insurance Companies Division, NC Department of Insurance

- John Wrenn, Commercial Lines Manager, Property and Casualty Division, NC Department of Insurance
- Bobby Croom, Senior Deputy Commissioner, Product Regulation Group, NC Department of Insurance
- Thomas Kincheloe, Legislative Liaison, NC Department of Insurance
- Chuck Whitehead, Legislative Attorney, NC Department of Insurance

CHILD CARE AND COMMUNITY-BASED CHILD-WELFARE PROVIDERS LIABILITY INSURANCE WORKGROUP REPORT

Prepared in Response to
Session Law 2025-36

December 30, 2025



NC DEPARTMENT
of INSURANCE
MIKE CAUSEY, COMMISSIONER

TABLE OF CONTENTS

SCOPE.....	1
EXECUTIVE SUMMARY	2
INTRODUCTION	4
Child Care Providers and Community-Based Child-Welfare Providers Facing Insurance Issues.....	4
CHILD CARE AND COMMUNITY-BASED CHILD-WELFARE PROVIDERS LIABILITY INSURANCE AVAILABILITY AND AFFORDABILITY	6
Child Care.....	6
Community-Based Child-Welfare Providers.....	10
Benchmarks NC Suggests Four Recommendations to Address Insurance Challenges for Community-Based Child-Welfare Providers.	12
POTENTIAL OPPORTUNITIES AND REFORMS	15
Captive Insurance.	15
Pooling Agreements.....	16
Risk Retention Group.....	17
Subsidies.....	18
Tax Breaks.....	18
Broader Consideration and Better Communication of Rules, Policies and Violations.....	18
TORT REFORM.....	19
Reviver Statutes.....	20
Cap Non-economic Damages.....	21
Third Party Litigation Funding.....	21
RECOMMENDATIONS	22
CONCLUSION.....	23
APPENDIX.....	25

This esteemed body has long “[r]ecogniz[ed] the importance of the early years of life to a child’s development...and declares its intent with respect to the early care and education of children...[that] the State should protect children in child care facilities by ensuring these facilities . . . provide the developmental needs of these children . . . by qualified persons.” N.C.G.S. § 110-85 (2025).

SCOPE

As requested under Session Law 2025-36, the North Carolina Department of Insurance (NCDI) established a workgroup to examine the potential for developing group liability insurance plan opportunities for licensed child care providers and for all nongovernmental contractors that contract with the Department of Health and Human Services and any county or local agency administering public assistance programs under Chapter 108A, Article 2 of Chapter 122C and Article 1A of Chapter 131D of the General Statutes. The workgroup was tasked with delivering findings and recommendations for:

1. Potential methods for creating group liability insurance plan opportunities for all child care providers.
2. Reforms that could reduce group liability insurance plans premiums.
3. Tort reforms that could reduce the liability damages of child care providers.¹

The Child Care Regulatory Reform Workgroup was comprised of eighteen members. The membership included representatives from the NCDI, the insurance industry, the NC Licensed Child Care Association, the NC Department of Health and Human Services-Division of Child Development and Early Education (NC DCDEE)², Benchmarks NC and the American Tort Reform Association.

The workgroup was asked to develop potential liability insurance options for two very distinct and different groups.

1. Child care providers, and

¹ This report, while prepared by NCDI, contains the opinions, conclusions and recommendations of the workgroup. This strict mandate of Session law 2025-36 required that the “Department of Insurance report the findings and recommendations of the *workgroup*.” S.L. 2025-36, Sec. 12.(b). Therefore, NCDI does not endorse or condone the workgroup findings. This is particularly true for the tort reform provisions which are offered in compliance with the workgroup mandate.

² The North Carolina Department of Health and Human Services, Division of Social Services, which oversees child welfare services for the State, did not participate in this work group but did review and edit this report.

2. Nongovernmental contractors with the State, counties or local governments who provide social services related to child welfare. (Community-based child-welfare providers)

The issues and needs of these two groups are varied and will be addressed separately. While there may be areas of overlap or repetition in the analysis, each group's unique circumstances warrant individual consideration. Overarching findings and conclusions will be presented jointly.

EXECUTIVE SUMMARY

The early care and education of children is a foundational priority for North Carolina, as reflected in state law and public policy. However, the child care and child-welfare sectors are facing a growing risk that threatens their stability and long-term viability: the rising cost and declining availability of liability insurance. In response to this challenge, the North Carolina Department of Insurance convened a workgroup under Session Law 2025-36, to examine potential solutions. The workgroup included representatives from state agencies, the insurance industry, nonprofit organizations, and tort reform experts. Its charge was to explore group liability insurance options, identify reforms to reduce insurance costs, and consider tort reforms that could mitigate liability exposure for providers.

The workgroup focused on two distinct groups: licensed child care providers and community-based child-welfare provider organizations that contract with the state or counties to deliver services to children in the child welfare system. Both groups are essential to the well-being of children and families, yet both are increasingly unable to secure affordable and comprehensive liability insurance. Providers report increases in premiums, reduced coverage, and frequent cancellations or non-renewals, even when they have no history of claims.

In North Carolina insurance covering child care is not required by the state for licensing purposes, except for transportation-related liability. However, many providers must carry insurance to meet the requirements of public funding programs, landlords, lenders, or their own risk management policies. The market for child care liability insurance has contracted sharply. Most coverage is now offered through surplus lines carriers, which have limited oversight by the NCDOI and have become increasingly selective and expensive. Providers with high quality ratings and no claims history are being dropped or priced out of the market. The result is a fragmented and unstable insurance landscape that disproportionately affects small and rural providers.

Community-based child-welfare providers face similar challenges. These organizations, often nonprofit and mission-driven, are legally required to carry liability insurance as a condition of their contracts with state and county agencies. Often, their contracts require them to indemnify the government for claims arising out of the contracts or provisions of services thereunder. This creates an uninsurable risk and drives up premiums. Providers report being dropped by insurers, paying significantly more for less coverage, and struggling to find any carrier willing to insure child welfare-related work.

To address these issues, the workgroup explored several potential solutions. One option is the creation of a captive insurance company, which would allow providers to self-insure through a state-supported entity. While captives offer advantages such as cost control, tailored coverage, and access to reinsurance markets, they also require substantial capitalization and administrative infrastructure. The child care sector, in particular, may lack the financial and operational capacity to support a captive model. A viable captive would likely necessitate a significant state investment. The risk of catastrophic claims, especially related to sexual abuse and molestation, further complicates the feasibility of this approach.

Another option is the formation of an insurance pooling agreement, in which providers collectively purchase or self-fund liability coverage. Pools can reduce costs by spreading risk, offer broader coverage, and promote best practices in risk management. However, they also face challenges related to governance, participation, and financial sustainability. Providers with strong safety records may be reluctant to subsidize higher-risk members, and a single large claim could destabilize the pool. Reinsurance is essential but increasingly difficult to obtain. Previous efforts in other states, such as Texas and South Carolina, have seen limited success due to low participation and implementation barriers.

Government subsidies for child care providers could be used to offset the cost of premiums and be structured as direct payments or as reimbursements of their insurance expenses. Subsidies could also be targeted to incentivize participation in group insurance pools or captive insurance programs. Additionally, tax incentives or deductions to reward providers who maintain liability insurance or invest in risk-reduction such as safety training, facility upgrades, or participation in state-approved risk management programs.

The workgroup also considered tort reform as a means of reducing liability exposure and improving insurability. Key proposals included capping non-economic damages in child care and child-welfare cases, limiting third-party litigation funding, and

revisiting revival statutes that allow retroactive claims for childhood abuse. Community-based child-welfare providers also suggested a cap on damages of \$1 million or up to the statutory liability amount available on a claim against the State under the Tort Claims Act. While these reforms are controversial and would require legislative action, they are seen by some stakeholders as necessary to stabilize the insurance market and preserve access to services.

The liability insurance issues facing child care and community-based child-welfare providers threaten the sustainability of essential services and place vulnerable children and families at risk. The workgroup's findings offer potential solutions to address these issues.

INTRODUCTION

Child Care Providers and Community-Based Child-Welfare Providers Facing Insurance Issues.

Child care providers and community-based child-welfare provider organizations that serve children and families are essential to the well-being of North Carolina communities. These organizations such as child care and early education centers, foster care agencies, and therapeutic service providers, are often nonprofit, mission-driven, and deeply rooted in local support systems. Yet they are now facing a growing and under-recognized crisis: the rising cost and decreasing availability of liability insurance.

What was once a routine operational necessity has become a significant barrier to sustainability. Across the country, providers are reporting dramatic increases in premiums, reduced coverage, and more frequent cancellations or non-renewals. This is not an isolated issue; it is systemic, affecting both early childhood education and child welfare sectors. Without access to affordable and comprehensive insurance, many providers are at risk of closing, cutting services, or losing eligibility for public funding.

A 2024 survey by the National Association for the Education of Young Children (NAEYC), which gathered responses from over 1,100 early childhood educators across 49 states and D.C., revealed that most respondents had experienced rising insurance costs. Many struggled to find or afford coverage, and a significant number were denied or dropped by insurers. Alarming, nearly two-thirds said they would be forced to close if they lost their insurance. (Appx. 1) (National Association for the Education of Young Children (NAEYC)(2024, August). *Liability Insurance and Early Childhood Education*).

Even when providers do obtain insurance, the coverage is often inadequate. More than one-third of NAEYC respondents reported reduced coverage limits or new exclusions—many of which target core aspects of child-serving work, such as abuse and molestation, field trips, communicable diseases, and professional liability issues like food allergies or medication errors. Insurers are also increasingly using state licensing data, including minor citations, to justify rate hikes or cancellations. This practice discourages transparency and undermines efforts to improve quality and safety.

Similar patterns are emerging in the child welfare sector. A 2025 national survey of community-based providers found that nearly two-thirds had changed insurance carriers in the past five years due to non-renewals, unaffordable premiums, or insurers refusing to cover child welfare-related work. Many reported being unable to meet insurance requirements for public contracts, jeopardizing their ability to serve vulnerable children and families.

These providers are often legally or contractually required to carry liability insurance and, in many cases, to indemnify the state or county. Yet even those with no history of claims are struggling to secure adequate coverage. When they cannot meet insurance requirements, they risk losing contracts, reducing services, or shutting down entirely. This creates a dangerous “service cliff,” particularly in child welfare, where the state may be unable to deliver services or find qualified replacements.

The financial strain of liability insurance on both child care and community-based child-welfare providers is compounded by other rising operational costs including wages, rent, utilities, and materials. Most providers operate on thin margins and rely on fixed-rate contracts or state subsidies that do not adjust for inflation. As premiums rise, providers are forced to absorb the cost, pass it on to families, or reduce services. (Appx. 2) (National Organization of State Associations for Children (NOSAC) & Association of Children’s Residential & Community Services (ACRC)(2025, August). *Insuring Care: How Liability Insurance Access Threatens Community Services for Children – 2025 National Survey Report*).

Child care and community-based child-welfare contract providers in the workgroup reported it is becoming increasingly difficult for them to obtain liability coverage, and the coverage that is available is prohibitively expensive. This issue represents a national problem. The consequences are already being felt. Programs are closing, reducing hours, or turning families away. Providers, unable to afford or obtain liability insurance, may be operating without insurance, exposing themselves and the families they serve to catastrophic financial risk.

This report shall focus on the availability and affordability of liability insurance for child care and community-based child-welfare contract providers, possible corrective actions and potential group liability insurance plans.

CHILD CARE AND COMMUNITY-BASED CHILD-WELFARE PROVIDERS LIABILITY INSURANCE AVAILABILITY AND AFFORDABILITY

Child Care.

The North Carolina Department of Health and Human Services (DHHS) is responsible for regulating and licensing child care providers. This is carried out through the Division of Child Development and Early Education (NC DCDEE). Child care in North Carolina is defined as a program or arrangement where three or more children less than 13 years old, who do not reside where the care is provided, receive care on a regular basis of at least once per week for more than four hours but less than twenty four hours per day from persons other than their guardians or full-time custodians, or from persons not related to them by birth, marriage, or adoption. This includes:

- Child Care Centers (CCC): facilities caring for more than three children under 13.
- Family Child Care Homes (FCCH): home-based care of two to ten children.
- Centers Located in a Residence (CLIR): centers operating from a residential home for three to fifteen children.

Information provided by NC DCDEE in November 2025, noted there were 5,208 child care facilities in North Carolina, serving approximately 214,444. Of those there are 4,136 licensed Child Care Centers in North Carolina with an enrollment of over 208,000 and 1,045 licensed Family Child Care Homes with an enrollment of 6,386.

NC DCDEE considers licensed child care facilities safe and in good standing. When compliance issues occur, they may be addressed in collaboration with the assigned consultant or the issuance of an administrative action which allows corrective measures to be implemented and monitored. If the facility poses an imminent danger to children or significant health and safety concerns, NC DCEE may issue an administrative action that results in the closure of a facility. The compliance and enforcement requirements are outlined in NC General Statute Chapter 110, Article 7 regarding Child Care Facilities; NC Administrative Code Title 10A, Child Care Rules, adopted by the NC Child Care Commission.

Insurance for child care providers (as well as community-based child-welfare providers) encompasses many different aspects of the business. Typically, insurance will fall within these categories:

- General liability. Covers third-party bodily injury and property damage claims. Most basic and essential form of coverage for child care.
- Professional Liability (E&O). Protects against claims of negligence, improper supervision/training, failure to provide appropriate care or educational services.
- Worker's Compensation. Covers medical expenses and lost wages for employees injured on the job.
- Property Insurance. Covers damage to buildings and other physical assets due to fire, theft, vandalism or other causes.
- Business Owner's Policy (BOP). Bundled policy that includes general liability and property.
- Abuse & Molestation Coverage (Sexual Abuse & Molestation-SAM). Provides protection for damages related to abuse allegations.
- Business interruption. Provides income replacement if the child care provider must close temporarily due to a covered event.
- Commercial Auto. Vehicles used for transporting children or staff.

The NC Child Care Commission is the rulemaking body for child care licensure requirements, which does not currently require a child care provider to carry any general liability insurance, SAM insurance, property insurance, or professional liability insurance. Child Care Rules only require that child care centers providing transportation for children must meet all motor vehicle laws, including inspection, insurance, license, and restraint requirements. This means that the child care provider must be insured for automobile liability as required by State laws governing transportation of passengers pursuant to N.C.G.S. § 20-279.21. (Appx. 3) (10A NCAC 09.1002 (2025)).

In practice, many North Carolina child care providers must still maintain liability insurance to meet the requirements of:

- Public funding programs such as NC Pre-K or Smart Start.
- Requirements of landlords or property managers.

- Mortgage lenders, equity lenders or grant-making institutions.
- Risk mitigation policies for their own protection.

This creates a regulatory gray area where insurance is not legally required by the state but is effectively required for most providers to participate in the child care system. As a result, child care providers, especially small or rural providers, face significant barriers when insurance is unaffordable or unavailable.

Key challenges that licensed child care programs are facing in North Carolina include the following:

- *Insurers are pulling back or narrowing coverage.* Carriers that previously wrote child care policies are offering fewer policies for licensed centers or excluding abuse-and-neglect and related professional-liability risks entirely. This forces child care businesses to obtain multiple policies with multiple carriers, typically at a higher combined cost.
- *Premiums and out-of-pocket costs have risen sharply.* Sharp premium increases, higher deductibles, and more restrictive endorsement language have pushed total insurance costs up for many licensed child care centers, pressuring an already fragile business model.
- *Underwriting is much stricter with claims history and violations penalized.* Programs with *any* prior licensing violations, complaints, or claims are often declined or only offered coverage with heavy exclusions or steep surcharges, reducing options for licensed child care programs with even *minor* prior incidents.
- *Market concentration is leaving few carriers.* A shrinking set of insurers and brokers willing to insure licensed child care programs erode bargaining advantages, drives up costs and produces coverage deserts.
- *Carriers are reluctant to insure new programs.* Because there is no history (claims, incidents, violations, etc.), new child care programs or businesses may not be able to find a carrier willing to offer them any coverage.

In North Carolina, most insurance for child care centers are provided by surplus lines insurers rather than insurers in the admitted market. Surplus lines carriers are insurance companies that provide coverage for risks that standard insurance companies are unwilling or unable to insure. They operate outside the admitted market, allowing them more flexibility in underwriting and pricing policies for unique or high-risk situations. The NCDOI has limited oversight authority for surplus lines

carriers which makes it very difficult to obtain current child care liability insurance coverage information. However, in recent years, many have become more restrictive or quit writing this business.

Child Care coverage has been previously filed and approved with North Carolina admitted insurance carriers. The approved policies could be stand-alone liability coverage, as part of a multi-peril package that includes Property and Liability coverage, or as an endorsement to an existing General Liability program. The coverage is also available as a Home Day Care coverage endorsement to the Homeowners policy or as an endorsement to a personal liability/umbrella policy. However, since 2015 admitted insurance companies have not introduced new filings, which indicates a loss of appetite to continue this line of coverage. It appears the market strains have dictated that the surplus lines carriers may be the only available option.

Concerningly, even the surplus lines market is becoming more difficult and expensive. The North Carolina Surplus Lines Association (NCSLA) has confirmed that several surplus lines carriers have quit writing child care business. Many of those that remain have stopped writing for “new ventures” who have no loss experience. This has resulted in a very tight marketplace with higher premiums. Child care programs are reporting that insurance carriers dropped them in the last year after scrutinizing state websites/public records for rule violations, whether minor or major. Even programs with the highest quality ratings and no prior claims are being dropped by insurance carriers or experiencing extreme premium hikes.

Data from surplus lines carriers is very limited because the NCDOT maintains limited oversight authority. However, the NCSLA has confirmed that premiums have significantly increased due to a convergence of issues. A key driver is the increased frequency and severity of lawsuits. This includes national lawsuits (clergy abuse/assaults, Boy Scouts of America, child care, private schools, etc.) stemming from revival statutes, which allow previously time-barred claims to be filed, significantly expanding insurers' liability exposure. Additionally, inflation has raised the cost of claims, legal defense, and facility repairs, while reinsurance costs have also surged, making it more expensive for carriers to underwrite child care risks. These pressures are compounded by large settlements and jury awards, which have made child care a high-risk sector in the eyes of insurers. This problem is not unique to North Carolina; surplus lines markets are shrinking across the nation.

Delaware recently completed a market survey of insurance carriers to examine the increased difficulty of child care and foster care providers to access liability insurance. Delaware was concerned with the shortage of accessible coverage affecting the

availability to provide necessary services and the impact to child care including services provided by government-supported and/or government contractors. The Delaware survey confirmed a shrinking or restricted market with very few options for coverage.

Potential reforms recommended by the North Carolina workgroup for child care providers can be organized into three categories:

1. Insurance/Reinsurance pools and/or captive insurance product solutions
2. Legislative adjustments/tort reforms
3. Engagement from the State in establishing and communicating child care rules and policies as well as reforming how regulators publicize violations or incidents.

Community-Based Child-Welfare Providers.

Community-based child-welfare providers deliver a broad continuum of behavioral health, child welfare, education, development disabilities and residential support services throughout the State. Our state's social services system involves a complex interplay between federal, state, and county government with respect to social services funding, administration, and policymaking. North Carolina has a "county-administered, state-supervised" social services system under which social services programs are administered at the local level primarily by county departments of social services. NCDHHS is responsible for supervising the local administration of state and federally funded social services programs.

Counties are authorized to contract with, as well as appropriate money to any private individual or entity to carry out any public purpose that the county is authorized by law to engage in. Thus, if a county has statutory authority to fund and undertake a social services program itself, then it may contract with a private entity to provide that program. In fact, counties are specifically authorized to contract with any governmental agency, person, or private child service providers to carry out the counties' obligation to provide the child welfare services. See, N.C.G.S. §153A-259 and §153A-449.

Community-based child-welfare providers fulfill many of the counties' obligations to undertake social services programs. The provider's contracts with the counties require the provider to have certain levels of insurance and to indemnify and hold harmless the county from any and all liability. The types of losses insured are the same or similar to child care providers, such as, general liability, SAM, property, professional liability, or vehicle.

Benchmarks NC is a nonprofit association of nationally accredited community-based child-welfare service provider agencies in North Carolina. Its members deliver services in child welfare, mental health, intellectual and developmental disabilities, and substance use. Benchmarks was a valued member of the workgroup and provided insight to address the issues facing their clients and recommendations to address these issues.

North Carolina's insurance crisis is impacting child and family-serving organizations and the communities they serve. These community-based child-welfare services providers, the vast majority of whom are nonprofits, contract with state and county child welfare to provide prevention services, foster family services including kinship care, and a variety of therapeutic services.

Liability coverage is mandated by North Carolina statutes for the contractual agreement between private service providers and the state and county child welfare agencies. Chapter 153A of the North Carolina General Statutes mandates that each county provides social services programs pursuant to Chapter 108A.

Child welfare services have historically been delivered by community-based service providers through public-private partnerships. Counties and States are largely immune or limit their own liability for wrongdoing. North Carolina has a limited waiver of sovereign immunity for State agencies of up to \$1 million pursuant to the Tort Claims Act. If a county has purchased insurance, they may limit their liability up to the limits of the liability insurance under governmental immunity principles. However, almost all states treat nonprofits like any other business for liability purposes. To protect their staff, clients, and organizational sustainability, community service providers must maintain a range of insurance. Furthermore, child-welfare providers in North Carolina are compelled by statutes or contract to obtain and maintain liability insurance coverage at specified limits as a prerequisite to service on behalf of the State or county child-welfare agencies. The county child welfare agencies further limit their own liability by requiring service providers to indemnify them against claims, even for actions attributable to the county agency staff rather than the provider, which increases both risk and insurance premiums. Pennsylvania has, for some time, found that provider contracts which indemnify or hold harmless a county or municipality from claims or damages resulting from the county or municipality's negligence are against public policy and void. (Appx. 4) (67 Pa.C.S. § 8102 (2025)).

Providers are struggling to find or maintain adequate and affordable liability insurance coverage, even when they have no insurance claim or loss history. Insurance companies are drastically increasing premiums or exiting the market

altogether, refusing to cover providers doing child welfare-related work. NC DCDEE asserts that continued engagement with insurance carriers, emphasizing the health and safety of children in licensed child care facilities could be critical in the insurance coverage decision-making process.

Some of the largest insurers of nonprofit community-based child-welfare service providers have limited their coverage offerings, exiting some states completely and refusing to take on new clients in others. As a result, some providers have turned to the surplus lines market, where they pay even more and may receive lower quality coverage.

Community-based child-welfare providers believe that without interventions to this insurance crisis, private providers will be forced to reduce or eliminate their services resulting in increased boarding days in hospitals, longer stays in foster care, and an increase in the number of children coming into foster care. However, with a collaborative effort with the State and counties, the insurance industries' concerns can be addressed reducing the perceived risks of insuring community-based providers who service children in the child welfare system.

Benchmarks NC Suggests Four Recommendations to Address Insurance Challenges for Community-Based Child-Welfare Providers.

1. Prohibit the North Carolina Department of Health and Human Services (NCDHHS) and affiliated county and local agencies from shifting responsibility caused by the public agencies' wrongdoing, to contracting non-governmental organizations.
 - When a provider is required by contract to indemnify the public agency for harm caused by the public agency themselves, this becomes an uninsurable risk.
 - Insurance companies are especially resistant to covering risk exposures of public agencies over which the provider has no control.
 - These indemnification clauses enable government employees whose action or inaction caused the liability to evade responsibility.
2. Extend protections to non-governmental organizations contracting with and providing child welfare services for the NCDHHS and affiliated county agencies to the same limits as the department they are providing services for.

- By allowing recovery for claims but limiting the liability of providers to the same limits as the NCDHHS, the State can preserve the capacity of the system to help our citizens who need care.
- Aligning private providers to the same liability as the government entity improves insurability of nonprofit provider organizations, thereby addressing the current liability crisis.

This recommendation may require significant legislative intervention. Under current North Carolina law, county Departments of Social Services (DSS) are generally protected from liability for losses related to child care or child welfare claims by the doctrine of governmental immunity. This immunity applies when counties perform governmental functions, such as child protective services, unless it is waived by statute or through the purchase of liability insurance.

However, in most circumstances, a county DSS is deemed to be acting as an agent of the North Carolina Department of Health and Human Services (NCDHHS) in providing child protective services. In such cases, a claim may proceed under the North Carolina Tort Claims Act (NCTCA) against NCDHSS for the conduct of the County DSS or its employees. The NCTCA provides a limited waiver of sovereign immunity for negligence claims against the State. These claims are adjudicated by the North Carolina Industrial Commission.

Under the NCTCA:

- Damages are capped at \$1 million per occurrence.
- The first \$150,000 of liability is paid by the employing State agency, with the remainder paid by the State if the employing agency cannot recover the full cost.
- The Attorney General's Office is responsible for defending these claims.

Extending this liability framework to independent contractors—who are not state employees or agents—raises significant legal and operational concerns. The North Carolina courts have held that independent contractors are not entitled to governmental immunity, nor are they covered under the Tort Claims Act unless they are acting as agents of the State within the scope of their authority.

If such contractors were treated as agents of the State for liability purposes, the State could be held responsible for their conduct despite having no direct supervisory authority over them. This may undermine the legal distinction between employees and contractors and expose the State to unintended liability for actions it cannot

control. Moreover, the North Carolina Department of Justice, through the Attorney General's Office, would be required to defend these claims, requiring the allocation of legal resources, personnel, and financial responsibility to defend and potentially indemnify third-party contractors.

3. If indemnification is not provided, establish a \$1 million claims cap to prohibit the potential for child welfare nuclear claims against private providers.

In June of this year, Texas enacted a bill that modifies the liability protections for nonprofit entities contracted with the Texas Department of Family and Protective Services (DFPS) to provide community-based care or child welfare services. Specifically, the bill establishes that these nonprofit entities can be shielded from liability for damages under the Texas Charitable Immunity and Liability Act (CILA) caused by their employees, volunteers, or caregivers if they meet certain rigorous screening and training requirements. To avoid liability, the entity must meet certain landmarks and requirements including, conduct timely criminal background checks, report any known misconduct, take appropriate administrative actions in response to performance issues, and ensure employees complete child sexual abuse prevention and child abuse reporting training every five years. The bill allows these entities to be held vicariously liable only if a claimant can prove the entity was not substantially complying with these requirements, that the non-compliance was designed to prevent the specific type of harm that occurred, and that the non-compliance contributed to the harm. The bill does not limit liability for gross negligence or prevent governmental entities from taking administrative or legal action. (Appx. 5) (Tex. Civ. Prac. & Rem. Code § 84.0068 (2025), added by S.B. 1558, 89th Leg., R.S. (2025)).³

4. Establish a state supported Captive Insurance Company for non-governmental organizations that contract with and provide child welfare services for DHHS and affiliated county agencies.

³ A recent Illinois bill, SB1696 (2025), proposes two-year temporary immunity for child welfare agencies providing foster care from civil liability. This immunity would shield agencies and their employees, unless their actions are deemed intentional or willful and wanton. The immunity is an extension of the parental tort immunity doctrine which, in Illinois, provides protection to foster parents.

POTENTIAL OPPORTUNITIES AND REFORMS

Captive Insurance.

Captive insurance is an alternative to traditional insurance in which businesses form their own insurance company to cover specific risks. North Carolina has become a leading domicile for captive insurers due to its modern regulatory framework and business-friendly environment. Under the North Carolina Captive Insurance Act, captives must be licensed by the Department of Insurance, with requirements including a feasibility study, business plan, and financial projections. Capital requirements vary by captive type and are subject to actuarial review.

Captives offer several advantages for organizations with strong risk management. They can reduce insurance costs by leveraging favorable loss histories and avoiding market volatility. Premiums are more predictable, aiding financial planning, and coverage can be tailored to address unique or hard-to-insure risks. Captives also provide access to global reinsurance markets and allow profits to be retained within the organization rather than paid to commercial insurers.

Despite these benefits, captive insurance may not be a viable solution for most child care providers. The sector is highly fragmented, with providers ranging from small, home-based operations to large, multi-site companies or organizations with several child care and early education centers. This disparity creates challenges in forming a cohesive risk pool. Smaller providers often lack the infrastructure to meet compliance and reporting standards, while larger providers may be unwilling to subsidize the higher relative risk of smaller members. These differences can lead to governance issues, unequal premium contributions, and internal conflict over claims and risk management strategies.

Forming a captive also involves significant legal, actuarial, and administrative costs, along with substantial initial capitalization to meet regulatory requirements and cover potential claims. For child care providers operating on thin margins, these start-up costs are often prohibitive. The workgroup tasked with exploring this model found limited claims data, as most providers are insured through surplus lines carriers, which provide extremely limited information to the NCDOI. Without centralized claims data, assessing risk and setting premiums is difficult. However, preliminary estimates suggest that initial capitalization would require substantial state funding.

The financial risk is further compounded by the sector's exposure to severe and unpredictable liabilities, particularly Sexual Abuse and Molestation (SAM) claims. These claims are rare but carry high financial and reputational costs, making them

difficult to underwrite. A single SAM claim could exhaust a captive's reserves, especially in a small or newly formed pool. This risk is heightened by the potential for revival claims, which could impose liabilities for incidents that occurred decades ago.

The NCDOJ received some general publicly available information on the number of childcare facilities and children served in North Carolina. We were unable to obtain relevant financial or exposure information from the insurance carriers because these risks are written through surplus lines entities, which do not report detailed underwriting data. In addition, the minimal historical loss information gathered from the child care centers themselves, creating significant uncertainty around expected claim frequency, severity, and associated trends. Collecting, validating, and analyzing this level of financial and loss data would require resources and expertise beyond the intended scope of this working group and outside the operational role of the NCDOJ. As a result, we relied on generalized assumptions rather than detailed actuarial inputs. Given these material data limitations, a full mock captive application could not be completed, and we recommend that any next steps involve a comprehensive actuarial review by an accredited actuarial firm in collaboration with an NC-approved captive manager once accurate financial and loss information can be obtained.

There may be alternative approaches worth exploring, such as forming a targeted captive focused solely on SAM or Errors and Omissions (E&O) coverage. These options require further actuarial analysis and stakeholder engagement to assess feasibility and will not address the issue of large scale affordable and available child care liability insurance.

Pooling Agreements.

An insurance pooling agreement allows multiple child care providers to join to collectively purchase or self-fund liability insurance. This model is intended to reduce individual premium costs, improve access to coverage, and stabilize the insurance market—especially for small or independent providers who often face high premiums or limited options.

Pools may be managed by a state agency, nonprofit, or third-party administrator. Membership is typically limited to licensed providers who meet safety and operational standards. A governing board oversees operations, sets contribution rates, and manages claims. Coverage often includes general liability, abuse and molestation protection (which is frequently excluded from private policies), and optional add-ons like workers' compensation or property insurance. Members are

expected to follow risk management protocols, including staff training and incident reporting. Claims are handled centrally, and pools must comply with state and federal regulations. Premiums are based on provider size, risk profile, and claims history, with a reserve fund maintained for solvency.

Pooling offers several advantages: it spreads risk, lowers costs, provides broader coverage, and supports providers with training and compliance tools. It also helps stabilize the market by encouraging insurers to stay engaged with the child care sector.

However, there are challenges. Providers with strong safety records may feel they are subsidizing higher-risk members. Managing a pool requires legal and financial expertise, and regulatory compliance can be complex. Participation is critical; without enough members, the pool may not be viable. A single large claim, especially involving abuse, could overwhelm the pool if reserves or reinsurance are inadequate. Larger providers may be reluctant to subsidize smaller ones for risks they cannot control.

Texas and South Carolina have enacted statutes to establish child care insurance pools. However, South Carolina's law was never implemented, and Texas has seen very low participation, highlighting the importance of strong design, funding, and provider engagement. (Appx. 6) (Tex. Ins. Code § 2205.001 to Tex. Ins. Code § 2205.307)(2025).

Risk Retention Group.

Risk Retention Groups (RRG) are specialized insurance entities formed under the federal Liability Risk Retention Act of 1986 (LRRRA). The LRRRA was enacted to address the limited availability and affordability of liability insurance in certain sectors by allowing businesses with similar risk profiles to self-insure through a collectively owned insurance company. RRGs are permitted to offer liability insurance only, and their members must be engaged in similar or related business activities.

RRGs are regulated and licensed by NCDOL under Chapter 58, Article 22 of the North Carolina General Statutes. The law requires that RRGs comply with all applicable state insurance regulations unless preempted by federal law. The group must be chartered as a liability insurance company under North Carolina law and submit a detailed plan of operation or feasibility study. The RRG must be sufficiently capitalized.

Like Captive Insurance and Pooling Agreements, the most immediate concern is the significant capital requirement needed to establish the group. In addition, the shared

risk exposure to another members large loss claims, and the fragmented and diverse business models may dissuade participation.

Regulatory compliance is another challenge. RRGs must navigate both federal and state laws, maintain detailed records, and respond to oversights from the NCDOJ and the National Association of Insurance Commissioners (NAIC).

Subsidies.

Government subsidies could be used to offset the cost of liability insurance premiums for licensed child care and community-based child-welfare providers. These subsidies could be structured as direct payments to providers or as reimbursements for a portion of their insurance expenses. By lowering out-of-pocket costs, subsidies would make it more feasible for providers to maintain adequate coverage. This would help prevent closures, maintain service capacity, and ensure compliance with funding or contractual requirements that mandate insurance.

Subsidies could also be targeted to incentivize participation in group insurance pools or captive insurance programs. For example, the state could offer start-up grants or matching funds to help capitalize a pool or captive, reducing the initial financial barrier for providers. This would help stabilize the insurance market and encourage broader participation, which in turn would spread risk and lower premiums over time.⁴

Tax Breaks.

Tax incentives could be structured to reward child care and community-based child-welfare services providers who maintain liability insurance or invest in risk-reduction measures. For example, providers could receive a state tax credit equal to a percentage of their annual insurance premiums. Alternatively, deductions could be offered for expenses related to safety training, facility upgrades, or participation in state-approved risk management programs.

Broader Consideration and Better Communication of Rules, Policies and Violations.

The North Carolina Licensed Child Care Association (NCLCCA) recommended better engagement from state agencies and rulemaking bodies in setting, writing and

⁴ For several years, the Illinois Department of Children and Family Services (DCFS) has used discretionary funds to help offset insurance premium costs for child-welfare foster care organizations. However, due to a significant surge in premium rates, continuing this subsidization has become financially unsustainable.

communicating licensed child care rules, policies and procedures/process. Reforming how rule violations or incidents are publicized could help moderate the child care insurance crisis by providing insurers with an accurate description and detail of the violation or incident and not releasing unsubstantiated claims until supported or validated.

While adhering to federal laws and rules tied to federal child care funding, the child care provider's proposed changes include:

- Minor and major rule violations should be clearly differentiated.
- Any time licensed child care programs "self-report" violations or incidents, any citation issued should be so noted.

Child care provider rule violations, reporting requirements and investigations are conducted by NC DCDEE pursuant to federal requirements. It is a federal requirement that all NC DCDEE child care visits, including complaint investigations, be posted on the public website. All visit summaries, violations and corrective actions are required to be posted for three years. Child care providers contend these requirements have a negative impact on the current insurance market for licensed child care programs. They would like anonymous complaints or unsubstantiated violations not to be publicized. Additionally, violations or incidents are not made public until the appeals process is completed and, if applicable, reduce the amount of time a violation or incident appears on a licensed child care program's record.

The North Carolina Child Care Commission is currently in the process of their periodic review of child care licensing rules, and the state Social Services Commission is likewise undertaking their periodic review of rules for subsidized child care.

TORT REFORM

The workgroup was also tasked with exploring tort reform that could reduce the liability damages of child care and community-based child-welfare service providers. The workgroup relied very heavily on the American Tort Reform Association (ATRA) to provide and detail several reforms specific to child care and other general reforms to limit liability and damage exposure. These included, among others, revisiting revival statutes, a cap on non-economic damages and reforms to third party litigation funding. Some of these reforms were endorsed by other members of the workgroup and are presented as possible solutions.

Many states have recently adopted tort reform legislation. Georgia and Louisiana both passed comprehensive tort reform laws in their 2025 legislative sessions. See, GA SB68 (2025). These laws address many of the issues that the workgroup

examined. While not specific to child care or child welfare services, they provided a framework in which to have these discussions.

Reviver Statutes.

Reviver statutes are laws that allow survivors of childhood sexual abuse to file civil claims years or even decades after the incident. The reviver statutes are applied retroactively and extend or even eliminate the traditional statute of limitations for injury claims. These laws, though intended to expand access to justice for survivors, have had the unintended consequence of significantly increasing potential liability exposure for both public and private entities, resulting in market contraction and higher premiums for insureds. In fact, insurers cite the uncertainty and exposure from reviver statutes as a significant reason for increased premiums and insurers pulling out of the market.

North Carolina, like most states, enacted a reviver statute in 2023. It allows civil actions for claims related to sexual abuse of a victim under 18 years old to be filed until the victim is 28 years old or 2 years after a perpetrator has been convicted of a crime. N.C.G.S. § 1-17(d) and (e) (2025).

Maryland enacted a reviver statute in 2024 but amended it in 2025 after recognizing the financial liability it created for public and private entities. The amendments included damage caps for civil claims and caps on attorney fees. Damage Caps were reduced to \$700,000 for private institutions and \$400,000 for public institutions, per claim. (Appx. 7) (Maryland House Bill 456, enacted May 6, 2025) New York has enacted two reviver statutes, and as a result has experienced a withdrawal of admitted insurers for non-profit entities, including foster care.

Even though these reviver statutes may be well intended, organizations like the American Tort Reform Association warn against these statutes. In May 2025, testimony to the Rhode Island Senate, ATRA testified:

“Sexual abuse of a child is abhorrent. Those who commit such acts should be prosecuted and survivors of abuse should have a reasonable time to file a lawsuit against those who are responsible. We respect the advocacy of the sponsors as well as the courage of survivors who may come forward to support it...[However], ATRA is concerned with the [reviver bill] and the troubling precedent it would set by abandoning a core element of the civil justice system – a finite statute of limitations – which allows judges and juries to evaluate liability when evidence is available. The retroactive application of this proposal is especially troubling. When the legislature prospectively (going forward) extends or even eliminates a statute of limitations, organizations are put on notice . . .

But when the legislature retroactively revives time-barred claims it means that organizations will not have [] records from that era, indicating how they screened or trained employees, received reports, or investigated concerns.”

Cap Non-economic Damages.

Another issue that the workgroup discussed was a cap on non-economic damages. The North Carolina Licensed Child Care Association shared their views with the workgroup:

“Capping non-economic damages in licensed child care cases for general negligence, professional negligence, premises liability and abuse and neglect – similarly to how they are capped in medical malpractice cases in North Carolina – along with prohibiting the seeking of punitive damages against licensed child care programs unless they condone, direct or contribute to the offending act of an employee would also improve liability insurance access and affordability. Waiving the cap in cases involving disfigurement, permanent injury, death, or if the conduct was reckless, malicious, intentional or grossly negligent would preserve justice for plaintiffs and victims while helping to preserve and expand child care services.”

Members of the workgroup proposed a \$1 million cap on damages to protect themselves from large awards or settlements. The cap could be exclusive to claims against child care providers or community-based child-welfare service providers who provide services to minors. It would not apply to gross negligence or willful or wanton conduct. North Carolina currently imposes statutory caps on recovery for non-economic damages claims for medical malpractice as well as a cap on punitive damages.

Third Party Litigation Funding.

A priority issue for members of the workgroup was addressing third party litigation funding. Litigation funding, also known as litigation finance or third-party legal funding, is a financial arrangement where a third party provides capital to a plaintiff or law firm to cover legal costs in exchange for a portion of any financial recovery from the lawsuit. North Carolina currently has two litigation funding bills in the General Assembly. (HB 925; HB 315). These bills seek to limit or prohibit commercial litigation funding (HB 315)- used by businesses or law firms for large, complex cases and consumer litigation funding (pre-settlement funding) (HB 925)-used by individuals, often in personal injury or employment cases, to cover living expenses while awaiting a settlement.

RECOMMENDATIONS

The workgroup's findings underscore the need for further study and information regarding the feasibility and effectiveness of potential solutions to the challenges of affordable and available liability insurance facing licensed child care providers and community-based child-welfare provider organizations. The lack of insurance information and pricing is due to the withdrawal of admitted carriers providing child care insurance. A path forward may include the following recommendations.

The state should initiate and provide funding of approximately \$500 thousand for a feasibility study to evaluate the creation of a publicly supported insurance pool or captive insurance model. This would include convening a workgroup of child care and community-based child-welfare service experts who could collect data from providers across the state. This data may include costs to provide child care, costs of liability insurance, claims made against providers, claims paid and exposure. The information could include training policies, safety assessments and type of facility involved. (e.g. regulated center, regulated in-home, unregulated provider, foster care, non-governmental contractor). A pilot program could be launched with a limited group of providers who demonstrate strong safety records and financial stability. This would allow the state to assess risk, cost, and operational requirements before scaling the model.

The workgroup also recommended legislative reforms should be considered to address structural barriers to insurability. The first is prohibiting or restricting litigation funding which the General Assembly has addressed in two recent pending bills. Additionally, capping non-economic damages in child-care cases and reviewing the impact of revival statutes on insurance markets. Such reforms, while controversial, could help reduce uninsurable risks and improve market participation.

Additionally, enhance open communication and consideration of impact on insurability from state agencies and rulemaking bodies in setting, writing and communicating licensed child care rules, policies and procedures/process. This includes discussion on how rule violations or incidents are reported and investigated. The NC Child Care Commission is the rule making body for child care rules and conducts quarterly open meetings and includes public comment and hearings in their rule making process.

Finally, the community-based child-welfare service providers encourage North Carolina to align liability protections for nonprofit providers with those afforded to public agencies. Extending similar liability caps or sovereign immunity protections would improve the insurability of these organizations and ensure continuity of care

for vulnerable populations. Additionally, prohibiting indemnification clauses that shift liability from public agencies to private contractors.

Taken together, these recommendations offer a roadmap for stabilizing the liability insurance market, protecting essential services, and strengthening the infrastructure that supports children and families across North Carolina.

CONCLUSION

North Carolina's child care and community-based child-welfare sectors are currently facing a liability insurance crisis that threatens the availability and sustainability of essential services for children and families across the state. Providers are increasingly unable to secure affordable and adequate liability coverage, placing their operations in jeopardy.

The workgroup developed a series of recommendations aimed at mitigating the crisis. While these proposals offer potential pathways forward, they do not fully resolve the complex challenges facing providers. Moreover, each recommendation raises significant policy considerations that warrant careful deliberation by the General Assembly.

Among the questions is whether the State should intervene directly by subsidizing liability insurance premiums for providers or by establishing alternative coverage mechanisms, such as a publicly supported Captive or insurance risk pool. Such an approach would require sustained and substantial financial commitment from the State.

Another consideration is whether the State should enact tort reforms that limit a victim's right to recover damages for negligent acts committed by a provider or repeal/reduce the reviver statutes. While this could reduce liability exposure and potentially lower insurance costs and increase the availability of coverage, it also raises serious ethical and legal concerns regarding access to justice and accountability for harm.

Another option involves shifting liability from private providers to local governments, counties, or the State itself and eliminating the requirement that child-welfare providers contractually indemnify the negligence of the local government, county or State. This model would recognize the public nature of child welfare services and could relieve providers of unsustainable legal risk. However, the shift in liability would require significant statutory change and it may also expose public entities to financial liabilities.

Each of these options must be weighed carefully. The path forward will require a balanced approach that protects children and families, ensures provider sustainability, and upholds the principles of fairness and accountability. Legislative engagement and leadership will be essential in determining the most appropriate and effective response to this growing concern.

APPENDIX

1.	National Association for the Education of Young Children (NAEYC) (2024, August). <i>Liability Insurance and Early Childhood Education</i>	1
2.	National Organization of State Associations for Children (NOSAC) & Association of Children’s Residential & Community Services (ACRC) (2025, August). <i>Insuring Care: How Liability Insurance Access Threatens Community Services for Children – 2025 National Survey Report</i>	10
3.	10A NCAC 09.1002 (2025).....	44
4.	67 Pa.C.S. § 8102 (2025).....	46
5.	Tex. Civ. Prac. & Rem. Code § 84.0068 (2025), added by S.B. 1558, 89th Leg., R.S. (2025).	48
6.	Tex. Ins. Code § 2205.001 to Tex. Ins. Code § 2205.307 (2025).	51
7.	Maryland House Bill 456, enacted May 6, 2025.....	64

APPENDIX 1

Liability Insurance and Early Childhood Education

August 2024

The infusion of federal funding for child care during the height of the pandemic helped programs cover rising fixed costs, support higher wages and benefits for staff, and remain open to serve families and communities.ⁱ While that additional federal relief funding has all but disappeared, early childhood education programs across the country continue to confront increasing expenses that neither they nor families can afford. One of these key expenses is the skyrocketing costs of insurance. In formal and informal conversations with early childhood educators, NAEYC staff, Affiliate, and advocacy leaders have heard increasing and increasingly desperate reports specifically related to liability insurance costs, as well as coverage reductions, rejections, and denials.

While various kinds of insurance are costing more for individuals and companies across industries,ⁱⁱ this brief, which shares the findings from a survey of 1,173 early childhood educators in 49 states and D.C. who have responsibility over liability insurance decisions at their programs, focuses on:ⁱ

- › the specific context and implications of increasing liability insurance costs and declining coverage options in early childhood education;
- › the impact on child care affordability, supply, and quality for families; and
- › emerging solutions to help child care and early learning programs navigate insurance challenges.

“The [insurance] options have dwindled, cost has just about doubled, and fewer things are being covered.” – Family child care provider, New York

Background on Liability Insurance in Child Care and Early Learning Programs

Liability insurance is a necessary and often mandatory protection for early childhood education programs operating in schools, centers, and homes.ⁱⁱⁱ Owners,

directors, and educators rely on this coverage to protect themselves and their families from financial losses that could result from claims or lawsuits filed against them due to accidents or injuries that can and do occur when groups of young children play and learn together.

› **Having liability insurance is important to the early childhood educators in this survey.**

“I would never watch other people’s children without coverage. You never know when a child could have an accident!” – Family child care provider, Nebraska

According to survey respondents, these are the top three reasons that liability insurance is important:

1. It protects their programs (88%)
2. It protects the families they serve (82%)
3. It is a state requirement (62%)

Other respondents also noted insurance protects their own families and staff; is required by banks, funders, landlords, or franchise owners; and is simply good practice.

› **Early childhood education programs have to navigate different insurance requirements.**

1. For more information about the survey, see methodology at the end of the document.

There is substantial variability in state requirements related to liability insurance for licensed child care settings, which makes it challenging to get a full and accurate picture. However, NAEYC's recent review of state websites and regulations indicate that more than half of states (30) require licensed child care centers to have liability insurance; 21 of those also require certain types of licensed family child care homes to have coverage; and 14 require it for all licensed centers and homes.^{iv} Some of these states further specify parameters like minimum liability coverage limits and coverage areas.

Among states that do not require liability insurance for any providers (21), at least nine do require some or all licensed providers to provide written notification to the state and to parents regarding their coverage status.

In addition, and as survey respondents note, certain funding streams, landlords, mortgage companies, franchise owners, and others require liability insurance even if the core state regulations and licensing standards do not.

➤ **The vast majority of early childhood education programs in this survey maintain liability insurance.**

In this survey, 87 percent of respondents overall said they work in programs that maintain liability insurance, including 88 percent of programs eligible to serve families receiving a child care subsidy, 94 percent of those working in a child care center, and 77 percent of those working in family child care homes.

Among the small percentage of respondents who reported that their programs do not maintain liability insurance (8%), nearly half (48%) said it was because it was too expensive to afford. Another 15 percent reported that their coverage had been dropped (7%) or denied (8%). Only 2 percent of survey respondents said they don't maintain liability insurance because they don't believe it's necessary.

Increasing Costs of Liability Insurance

"The cost is so hard to balance when we're trying to save families money. If we want to be open earlier or later than normal hours, our insurance charges more – if they even cover it. I used to do overnight child care and I can't afford to do it now because of the insurance." – Family child care owner, Nebraska

"Having to find such incredibly expensive insurance has been incredibly stressful, to the point of negative effects on my health and considering if it is worth continuing the business." – Early childhood educator, Oregon

"For small programs, the insurance expenses make it increasingly likely that we will not be able to remain open." – Early childhood educator, Michigan

In NAEYC's [January 2024 ECE workforce survey](#), which reached more than 10,000 early childhood educators, 49 percent of respondents noted that their programs were experiencing an increase in liability insurance costs. Based on that survey, and in combination with additional anecdotal and qualitative data, NAEYC launched this survey, which was geared solely at the individuals responsible for making decisions about liability insurance.

Within this smaller and more targeted audience:

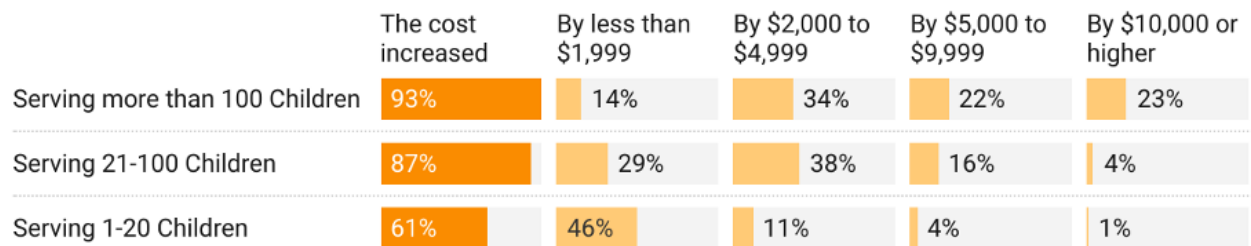
- **80 percent of respondents noted that their total liability insurance cost increased over the last year.**
- This includes 63% of family child care providers, 75% of rural providers, 80% of urban providers, and 83% of suburban providers who report that their total liability insurance costs have gone up.

Overall, respondents most frequently indicated that their liability insurance cost increased by up to \$1,999 (30%).

However, analyzing and disaggregating the data by looking at the program setting, the number of children served, and the inclusion of families receiving subsidy resulted in a deeper understanding of which programs are bearing the most pronounced cost increases. For example:

- Among respondents working in child care centers, 89% reported increased costs overall. Of these, 36% noted annual cost increases between \$2,000 - \$4,999; 19% noted cost increases between \$5,000 - \$9,999; and 13% reported cost increases of \$10,000 or more.
- Among respondents serving children receiving subsidies, 83% reported increased costs overall. 31% reported annual cost increases between \$2,000 - \$4,999; 15% reported those between \$5,000 - \$9,999; and 11% reported cost increases of \$10,000 or more.

Programs serving more children reported greater cost increases over the last year



Respondents were asked "How has the total liability insurance cost for your ECE program increased over the last year (since May 2023)?" 319 responded to this question from programs serving between 1-20 children, 289 serving between 21-100 children, and 288 serving more than 100 children. Percentages are calculated based on the number of valid responses to the question.

Decreasing Accessibility of Liability Insurance

"Why is it so difficult to renew? It stresses our program, takes away from other funding needs, and ultimately negatively impacts the children." – Child care center director, Florida

"I keep hearing stories of child care centers being dropped coverage without much notice." – Child care center director, Maryland

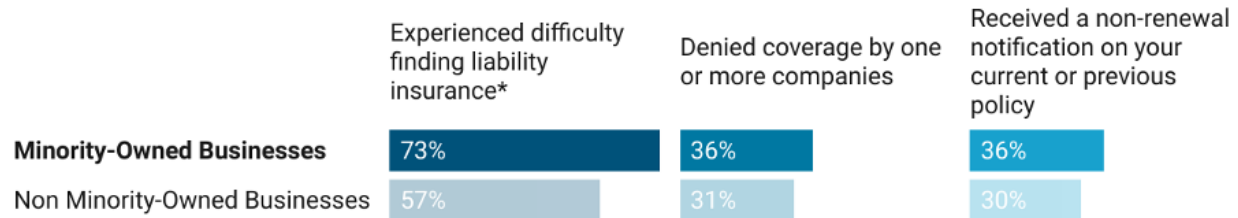
Managing cost increases is one major issue; another related issue is what happens when programs can't get the coverage they need or can't get coverage at all. This is a problem overall in terms of risk management and ability to operate safely and with security, but it also presents a unique challenge because some institutions and funding streams require that ECE programs have a certain amount of coverage to participate.

Yet that coverage is often out of reach, especially for some types of programs. For example, state-funded preK systems may require a certain amount of coverage before they enter into contracts with programs; if family child care programs—which have more limited insurance choices to start with—cannot find or afford that level of coverage, they may not be able to participate in the system, which undermines the goals of a mixed-delivery preK model.⁹

In addition, our survey analysis yielded concerning data on the disproportionate impacts of liability insurance challenges for child care programs that described themselves as "minority-owned businesses." Controlling for other factors, including size and setting type and urbanicity, the challenges of finding liability insurance were more pronounced among minority-owned businesses²—which further exacerbates challenges of sustaining the important and celebrated diversity of the ECE field.

2. Respondents working in minority-owned settings more often indicated that their program was in an urban area, but otherwise respondents working in minority owned businesses were similarly situated in terms of the numbers of children served and the setting type. A regression model controlling for setting, size and urbanicity reveals that respondents working in minority owned businesses had higher odds of reporting having trouble finding liability insurance than those working in non-minority owned settings.

Challenges finding and maintaining liability insurance were more pronounced among minority-owned businesses over the last year.



Respondents were asked "Have you experienced difficulty finding liability insurance or finding affordable insurance over the past year?"; "Has your program been denied liability insurance coverage by one or more insurance companies within the last year (since May 2023)?"; and "Did you receive a non-renewal notification on your current or previous liability insurance policy?". 320 respondents from minority-owned businesses responded to these questions and 671 respondents from non-minority businesses responded to these questions. Percentages are calculated based on the number of valid responses to the question.* Indicates a statistically significant difference in proportions between respondents working in minority-owned vs. non-minority owned programs.

Limited Coverage

- › More than one-third (36%) of respondents reported that their overall liability insurance limits have decreased and/or that new limits have been added for specific categories of coverage.
- › Another 26 percent of respondents noted that their coverage had changed in other ways, including limitations around physical and sexual abuse, field trips, playgrounds, pools and other structures, or communicable diseases.
- › More than half (54%) of family child care providers noted that their coverage limits have changed.

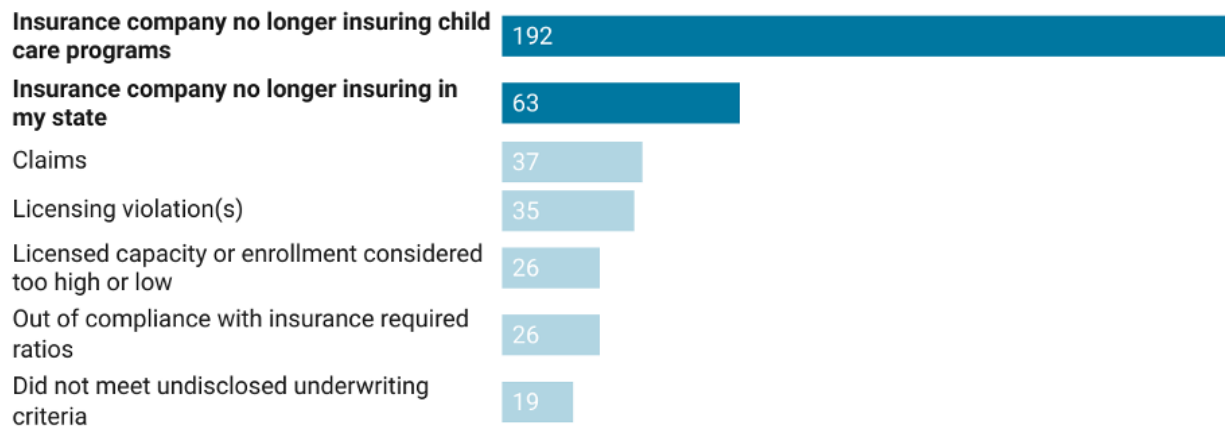
Unavailable Coverage

- › Sixty-two percent of respondents reported that their program had difficulty finding liability insurance or finding affordable liability insurance.
- › This includes 55% of programs in rural areas, and 57% of family child care programs.

Denied Coverage

- › One-third of respondents (32%) reported that they had been denied coverage in the past year (since May 2023).
- › One-third of respondents (32%) reported receiving a "non-renewal notification" on a current or previous liability insurance policy.
- › By far, the primary reason for a non-renewal or denial was "Insurance company no longer insuring child care programs."

Top named reasons for non-renewal or denial of liability insurance among survey respondents



Respondents were first asked if they had been denied liability insurance or received a non-renewal—334 respondents answered "Yes". Those answering "Yes" were then asked, "Why was your ECE program not renewed or denied liability insurance coverage (select all that apply)? The numbers in the graphic represent a count of the number of times each answer choice was selected.

Stakes and Solutions

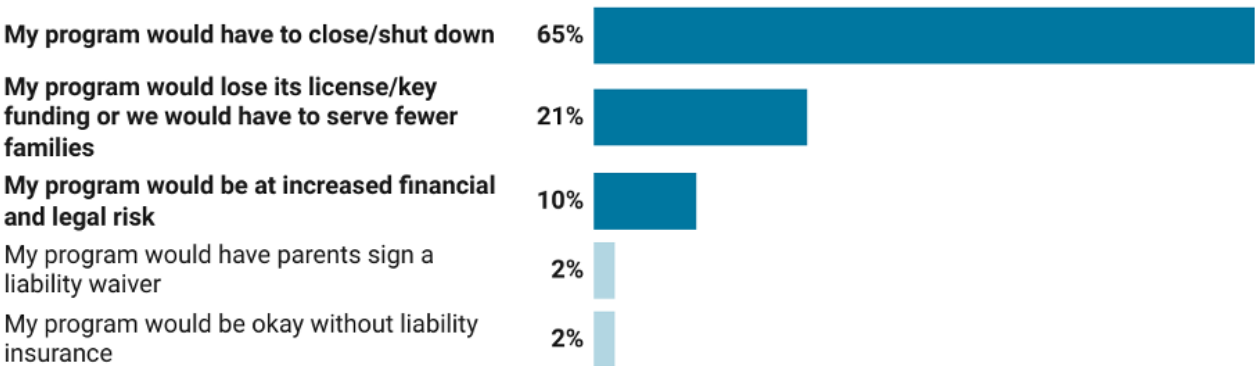
Early childhood educators are exhausted by waves of crises and depleted from navigating constant uncertainty; on this issue alone, survey respondents described themselves as “terrified,” “fearful,” and “constantly on edge” trying to navigate the increasing costs of and decreasing access to the liability insurance they need.

They also are clear on the stakes: if they cannot find, afford, or access liability insurance, 96 percent of survey respondents outlined consequences that would lead

directly to fewer children and families being safely served and supported, including 65 percent who said they would have to close their program.

Families, children, and businesses cannot absorb the loss of additional child care program closures. Already, 76% of respondents to this survey said they were aware of programs that had closed in their community; a quarter were aware of four or more programs that have closed.

What would happen if your program couldn't get liability insurance?



824 ECE workforce members responsible for maintaining liability insurance for their program responded to this open-text response question- "If applicable, what would happen if you couldn't get liability insurance?" Open-text responses were analyzed and coded based on theme. The themes that emerged from the review are represented in the rows of the graphic. Coded responses were counted and tabulated.

With these types of consequences at stake, solutions must be found. NAEYC asked those closest to the problem—in this case, early childhood educators who are responsible for liability insurance in their programs—to recommend the answers that would work for them. Here's what they said:

- **Educate insurance and licensing agencies on the context and impact of regulations and citations, and help them work together to support safety, clarity, and consistency.**

“We need reform of the entire ECE regulatory system so that state regulators work with centers to make them safer. They currently work on a system that is punitive instead of teaching. If the regulators worked to improve instead of punish, there would not be so many violations posted, and they would help the educators be better at their jobs and not afraid to come forward with issues.” – Early childhood educator, New York

“Insurance companies and government officials need to speak to each other regarding ratios.” – Family child care owner, Michigan

“Licensing needs to be more aware of how they write any [compliance] issues and how those can affect insurance. The insurance company reviews all the licensing web sites for any reason to not cover a program.” – Child care center director, Nevada

- **Directly subsidize and/or control the costs of insurance through discounts, reinsurance pools, caps, policy changes, and other mechanisms**

“Provide discounts and easily affordable liability insurance so providers are able to focus on quality childcare instead of spending way too much on out-of-pocket cost expenses.” – Family child care owner, Florida

“The State could possibly offer some type of liability insurance to licensed child care facilities or provide funding so providers could purchase liability insurance.” – Family child care owner, Colorado

“Prohibit insurance companies from dropping homeowners policy if the educator has a separate child care policy in place.” – Family child care owner, Connecticut

“Have a childcare provider centered insurance company. They know the regulations on childcare and how to best meet the needs.” – Family child care owner, Nebraska

“I would like to see some kind of incentive for [programs] such as mine who have a great rating/record, like a significant discount or some kind of tax credit to help with the outrageous premiums!” – Child care center director, Texas

Building on these proposed solutions, NAEYC also:

- Urges educators and advocates to work in partnership with insurance companies to ensure states require and fund programs to **keep low child-teacher ratios and group sizes that support well-being and minimize risk for children, families, and educators.**
- Encourages advocates and policymakers to learn more about what's happening in their own communities, including by **commissioning legislative and research studies on the availability and affordability of liability insurance** for child care providers, as [Nebraska has proposed](#), and **issuing guidance to support the inclusion of community- and home-based child care and early learning programs** in state-funded programs, [as Vermont has done](#).

As a child care director in Oklahoma says, “We need help, and quickly!” We urge state and federal licensing, insurance, and oversight bodies to listen to educators; seek out information, partnerships, and solutions; and take action today.”

Methodology

This online survey, created and conducted by NAEYC using SurveyMonkey, represents the responses of a non-randomized sample of 1,173 individuals working in early childhood education settings. The first question on the survey asked respondents to indicate if they were the person responsible for maintaining liability insurance for their ECE program. If they answered “yes” they were invited to participate in the rest of the survey. Those that answered “no” were deemed ineligible and taken to the end of the survey. Thus, responses are from a subset of the ECE workforce more connected to and familiar with issues pertaining to liability insurance. Please interpret the results accordingly.

The survey was made available in English and Spanish between May 16-June 15, 2024. The respondents represent providers in 49 states as well as Washington, DC; 38% report that they work in family child care homes while 55.1% report that they work in center-based child care. Others work in public school preK and Head Start. All percentages reported throughout the brief represent the valid responses to each individual question as not all respondents were required to respond to each survey question. For response sample sizes by question, please reach out to the authors. Data visualizations were created using DataWrapper (<https://www.datawrapper.de/>).

The survey links were shared widely through email newsletters, listservs, social media, and via partnerships, and 10 randomly selected respondents were provided with a \$100 gift card.

Given the constantly changing nature of this crisis, the broad national-level analysis from this survey is intended to present the experiences of the respondents, as captured in the moment that they take the survey, with extrapolations for the experiences of the field and industry at large. Previous NAEYC survey briefs are available at [NAEYC.org/ece-workforce-surveys](https://www.naeyc.org/ece-workforce-surveys).

Endnotes

- i. “We Are NOT OK” Early Childhood Educators and Families Face Rising Challenges as Relief Funds Expire. NAEYC, February 2024. www.naeyc.org/ece-workforce-surveys
- ii. Smialek, Jenna. “Insurance Costs Are Pushing Up Overall Inflation.” New York Times, March 12, 2024.
- iii. The most frequently named companies providing liability insurance to early childhood education programs in this survey included: Assure Child Care, Church Mutual, Markel, Next, Philadelphia, State Farm, and West Bend.
- iv. Recognizing this is public-facing data as of July 2024, and may have or will change, NAEYC’s review found evidence that states requiring liability insurance for all licensed centers and FCC include: AZ, DC, HI, KY, MT, NE, NV, NH, NJ, OK, RI, TN, TX, VT. States requiring licensed centers and some FCC: AR, DE, ID, IL, PA, WA, WV. States requiring only licensed centers: IN, KS, LA, ME, NY, ND, SD, VA, WI. States that do not require liability insurance: AL, AK, CA, CO, CT, FL, GA, IA, MD, MA, MI, MN, MS, MO, NM, NC, OH, OR, SC, UT, WY.
- v. Recognizing these challenges, the state of Vermont issued an important memo in June 2024 on “Insurance Provisions within Universal Prekindergarten Partnership Agreements” to provide guidance to school districts and supervisory unions and add “a notification option for school districts entering into prekindergarten agreements with programs that do not meet the desired insurance coverage limits.” See more here: <https://education.vermont.gov/memos/memo-dcf-aoe-upk-insurance-provisions-guidance>

© NAEYC 2024. The primary staff members who contributed to this piece through survey development, data gathering, analysis, writing, and design are: Ashraf Alnajjar, Meghan Salas Atwell, Maria Estlund, Gillian Frank, Daniel Hains, Lauren Hogan and Nicole Lazarte. NAEYC is also deeply grateful to Samantha Phillips for her guidance and feedback.

APPENDIX 2



HOME OF THE BUILDING BRIDGES INITIATIVE



The National Organization of
State Associations for Children

INSURING CARE: HOW LIABILITY INSURANCE ACCESS THREATENS COMMUNITY SERVICES FOR CHILDREN

2025 NATIONAL SURVEY REPORT



TABLE OF CONTENTS

Acknowledgements	01
Executive Summary	03
Introduction	06
Insights from a National Survey	07
Survey Design and Respondent Demographics	
Liability Insurance Trends	
National Survey Results Align with State-Based Trends	16
Insurance Challenges Will Impact Quality and Availability of Services for Children and Families	18
Call to Action and Potential Solutions	20
Conclusion	22
Appendices	25
1. Glossary of Insurance Terms	
2. Survey Details	

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Thank you to the leaders of the 327 child and family-serving organizations across the country who took the time to complete the extensive survey that was distributed nationally. The detailed information and insight you shared is critical to understanding the nuance and impact of the liability insurance crisis across the nation and the urgent need for solutions.

Our deepest gratitude to our consultant Lisa Pilnik, co-founder and director of Child & Family Policy Associates, for lending policy expertise along with her writing and research acumen to this survey report. We appreciate the contributions of Darla Bardine, Eric Giovanni, Ryan Hanlon, Kati Mapa, Pat Murphy, and Linda Spears in their review and feedback on the draft report. We also extend our appreciation to April Wall-Parker for her feedback on the survey design.

This work is not possible without collaboration. Most of the survey respondents are members of, or affiliated with, the organizations who have come together as part of the Child Welfare Liability Insurance Working Group. Thank you to the Working Group members who advised on survey design and who are committed to taking collective and coordinated federal action to address the urgent challenge in liability coverage for community-based organizations that are critical partners in serving children and families involved, or at risk of involvement, in the child welfare system.

Working Group Members

Darla Bardine, *Executive Director*, National Network for Youth (NN4Y)
Carrie Bolm, *CEO*, National Center for Community-Based Child Welfare
Kathleen Brady-Stepien, *CEO*, Council of Family and Child Caring Agencies
Lisette Burton, *Chief Policy & Practice Advisor*, ACRC
Mary Chant, *CEO*, Missouri Coalition for Children
Chad Collins, *COO*, National Center for Community-Based Child Welfare
Natasha Dobkowski, *Director of Governmental Affairs*, Florida Coalition for Children
Jennifer Duckworth, *Executive Director*, National Association of Children's Behavioral Health (NACBH)
Andrea Durbin, *CEO*, Illinois Collaboration on Youth, and *Vice President*, NOSAC
Meg Dygert, *Sr. Policy Assoc.*, *Child and Family Well-Being*, American Public Human Services Association
Eric Giovanni, *Managing Director*, Family Focused Treatment Association (FFTA)
Rachel Gwaltney, *Executive Director*, Children's League of Massachusetts
Ryan Hanlon, *CEO*, National Council For Adoption (NCFA)
Treva Johnson, *Director of Public Policy and State Resources*, FFTA
Patrick Lester, *Executive Director*, Voice for Adoption
Kati Mapa, *Director of Public Policy*, Child Welfare League of America
Trinady Maddock, *Senior Policy Associate*, NN4Y
Patrick Murphy, *Insurance Broker*, The Miller Group
Marlo Nash, *Managing Director*, Children's Home Society of America
Matt Obert, *President Elect*, NACBH
Kirsten Olson, *CEO*, Children & Families First DE
Elizabeth Oseguera, *Director of Public Policy*, CA Alliance of Child and Family Services
Megan Ransom, *CEO*, Texas Alliance of Child and Family Services
Janet Reynolds Snyder, *CEO*, Michigan Federation for Children and Families
Becky Miller Updike, *Executive Director*, Colorado Association of Family and Children's Agencies

ABOUT NOSAC AND ACRC



The National Organization of State Associations for Children ([NOSAC](#)) is a national partnership with a mission to improve outcomes for children and youth across the nation. Collectively, NOSAC represents more than 1,600 community-based organizations serving children, youth, and families.



The Association of Children's Residential & Community Services ([ACRC](#)) supports the work of experts in the field of child and youth behavioral health and mental well-being, including provider organizations, researchers, youth and family advocates, and public agencies across the United States and in several countries.

Special thanks to the leaders and staff of NOSAC and ACRC who contributed countless hours to the survey creation, launch, review, research, report writing, and communication necessary to gather and widely share this critical information.

QUESTIONS AND MORE INFORMATION

If you have questions or would like additional information about this report, please email Lisette Burton, *Chief Policy and Practice Advisor*, ACRC (Lburton@togetherthevoice.org) and Andrea Durbin, *CEO*, Illinois Collaboration on Youth, and *Vice President*, NOSAC (adurbin@icoyouth.org).

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EXECUTIVE SUMMARY

“When the agency has to pay more for liability insurance coverage, it takes dollars away from direct services to our children and families.” - Child welfare services provider

There is a liability insurance crisis impacting child and family-serving organizations and the communities they serve.

Child and family-serving organizations are anchors in communities and critical partners in the delivery of services that support child and family well-being. Community providers, the vast majority of whom are nonprofits, contract with state and county child welfare agencies across the country to provide prevention services, foster family services including kinship care, and a variety of therapeutic services. Mission-driven, sustainable work requires good business practices, including having appropriate liability insurance. Moreover, liability coverage is typically mandated by state statute or contractual agreement with public agencies. **Providers are struggling to find or maintain adequate and affordable liability insurance coverage, even when they have no insurance claim or loss history.** In many states, insurance companies are drastically increasing premiums or exiting the market altogether, refusing to cover providers doing child welfare-related work. This situation is creating a potential service cliff for children and families served by community providers across the country. A nationwide survey was conducted to gather information about the scope and impact of the problem.

A national survey sheds light on the problem and the impact.

A survey of 327 community providers in 46 states shows that the child welfare liability insurance crisis is widespread and threatens the public-private partnership and infrastructure of community-based services to children, youth, and families. **4 themes emerged from the survey responses:**

Threat to Service Continuity

- Just this sample of providers served over 400,000 children last year through child welfare prevention, family foster care, kinship care, reunification and/or adoption services, and therapeutic residential interventions.
- **Services beyond foster family care are at risk. Three-fourths of respondents provide services outside the child welfare system,** including community-based mental health services, afterschool programs, early childhood schools, parenting or home visiting services, housing services, and substance use services, among others.
- **Many providers indicated they may need to reduce or eliminate programs, or have already closed services, due to unsustainable insurance costs.** Two-thirds of survey respondents were willing to contemplate or were planning to make changes to the services they offer due to liability insurance concerns.
- This creates direct risk for children and families who depend on these services. As providers weigh the sustainability of their work and consider reducing or eliminating their footprint in the child welfare field (or are forced out due to having no insurance coverage options), it will have a direct impact on child and family outcomes.

Skyrocketing Premiums

- Premiums are rising at an unsustainable rate, diverting taxpayer and donor dollars away from services to children and families. **This sample alone documents more than \$200 million spent on liability insurance premiums this year.**
- Across respondents, **the average premium increase since 2019 is 163%.**
- Almost half of respondents have had their premiums double. **A quarter of respondents had their premiums increase a staggering 200%-1800%.**
- Premiums are rising regardless of individual claims histories; providers cannot “risk manage” their way out of this crisis. Individual providers, and even county and state child welfare administrators, are limited in what they can do to control costs.

EXECUTIVE SUMMARY

Loss of Coverage and Market Instability

- **Nearly two-thirds (63%) of respondents reported they had changed carriers in the last five years** due to coverage limitations, nonrenewal by their carrier, unaffordable premiums, and carriers exiting the market (i.e., refusing to cover organizations doing child welfare-related work).
- **Nearly two-thirds of respondents report difficulty getting bids.** Fewer insurance carriers are willing to participate in the child welfare market, and the policies they offer are limited in scope.
- Some providers face contract termination or the inability to bid on contracts because they can't meet insurance requirements.
- Rising costs are also reported in auto, property, cyber, and umbrella insurance policies.

Calls for Systemic Solutions

- Stakeholders in some states are attempting to work with legislators, but few report meaningful progress.
- Many providers urge legislative action and collaboration to solve this problem.

Federal action is needed.

Youth and families who have been harmed should absolutely be able to bring lawsuits and recover damages from responsible individuals and organizations. All youth and families should also be able to receive the supports they need. This report reveals that there is a national problem that calls for a federal response. Further, the federal government, in partnership with states, has a special interest and responsibility to ensure that children and families impacted by the child welfare system have access to high-quality care, services, and supports. Policymakers should consider the following broad recommendations and approaches to addressing the urgent challenge:

- 1. Partners must work together to look at the data and address the underlying challenges.**
 - The National Association of Insurance Commissioners could play a pivotal role.
 - Regulators, public agency leaders, lawmakers, community-based providers, in partnership with youth and families, should work together to identify strategies that will ensure accountability for wrongdoers while allowing effective child and family serving organizations to remain viable and available to families and communities in need.
- 2. Congress has provided federal solutions in other sectors impacting the public good and should step in here, because both the federal and state governments have a special, shared responsibility to support children and families involved, or at risk of involvement, in the child welfare system and the services they need.**
 - Amendments to federal law, offering federally-backed insurance options, and creation of special compensation funds are just a few of the ways Congress acted in the past.
- 3. Solving this challenge will likely require a suite of policy solutions, not a one-size-fits-all approach. Several recommendations that have been suggested by stakeholders include:**
 - a reinsurance program supported and guaranteed by the federal government;
 - a national risk pool, that encourages insurers to participate in the child welfare insurance market by spreading risk more widely across states and organizations; or
 - federal incentives for insurance providers to cover child welfare organizations, paired with quality assurance measures that ensure better outcomes for children and families (i.e., premiums or coverage tied to an agency's actual performance and compliance with best practices).

These are just a few possible solutions that protect the rights of victims to recover when they are harmed, incentivize high-quality service provision, and ensure that needed services remain available in our communities. **A national problem calls for national solutions.** While a one-size-fits-all solution is unlikely, a national dialogue and steadfast commitment to problem solving will generate options, but there is no time to waste.



“The trajectory is unsustainable.”

Insuring Care: How insurance industry changes are threatening child welfare services

“In 33 years of practice, we have not had a claim or loss. We also have an outstanding record with our state licensure agency... We were facing a 500% increase in our premiums this year... Our broker has warned us that next year's renewal process might be even worse...

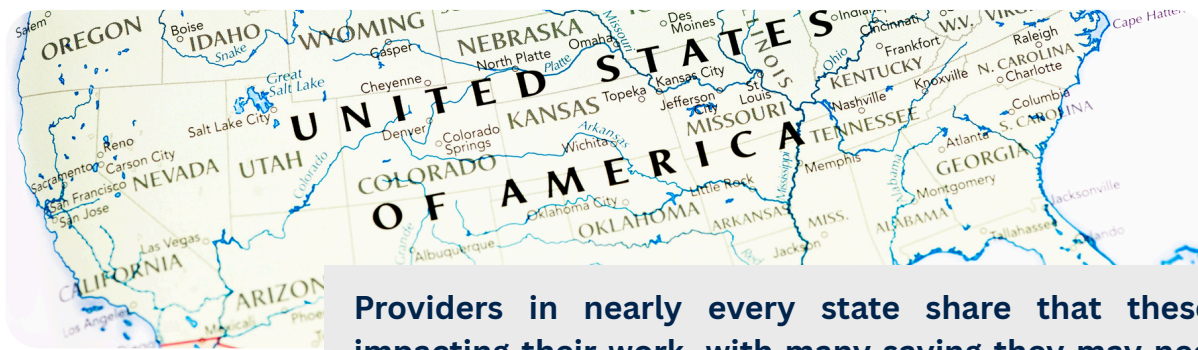
These issues may force us to close our doors.”

- Child welfare services provider

“Premiums have skyrocketed- our liability package premiums have increased 197% since 2019, but when added to our umbrella premium increases, the total increase is 216%. The trajectory is unsustainable.”

- Child welfare services provider

“Carriers and brokers continue to recommend [that we] get out of the child welfare industry.” - Child welfare services provider



Providers in nearly every state share that these costs are impacting their work, with many saying they may need to reduce or completely stop delivering child welfare services; potentially leaving thousands of youth in foster care without homes, and many more families receiving prevention, reunification, or kinship care services without support.

INTRODUCTION

Over the past several decades, the child welfare field has put great effort into transforming its continuum of care. Changes in the sector—from prioritizing prevention and family connections to enhancing quality standards and oversight for therapeutic services—have had significant impacts and are still underway. Community providers, who contract with counties and states to deliver child welfare services, contribute to these efforts by delivering prevention and wraparound services, supporting families before and after reunification, recruiting, licensing and supporting kinship caregivers, foster, and adoptive parents, and providing therapeutic care when needed, among other services. These service providers, the vast majority of whom are nonprofit organizations, are now facing an urgent challenge to their ability to provide services to children and families: a looming lack of affordable liability insurance coverage.

Although service delivery is the core mission of these community providers, good business practices, including having appropriate insurance, are necessary for both organizational sustainability and as a standard condition of their licensure or contracts with public agencies. Insurers are exiting the market, and those that remain are increasing premiums by double, triple, or more for community providers delivering foster care and related services, even those with no past claims. Providers in nearly every state share that these costs are impacting their work, with many saying they may need to reduce or completely stop delivering child welfare services; potentially leaving thousands of youth in foster care without homes and many more families, those receiving prevention, reunification, or kinship care services, without support. Although these children and families are often involved with providers because a state or other public entity has required or encouraged their involvement in services, states have largely been unable to meaningfully address this challenge. As with other services that are essential to our communities but may be unappealing to insurers, it is time to consider new, federal, solutions and partnerships.

THE CHALLENGE – INSIGHTS FROM A NATIONAL SURVEY

Various types of insurance are becoming more expensive for individuals and organizations across sectors, but, for a variety of reasons, insurance companies are moving away from insuring schools,^[i] early learning centers,^[ii] foster care providers,^[iii] and other entities and organizations serving children. In January 2025, in response to growing concern from community service providers and their partners, the Association of Children’s Residential and Community Services (ACRC) and the National Organization of State Associations for Children (NOSAC) began facilitating a federal working group to learn more about the scope and impact of this issue and consider potential solutions. This included outreach to state and national organizations, reviewing state reports, legislation and press coverage, as well as leading a national survey of providers.

Survey Design and Respondent Demographics

The 54-question survey^[iv] was designed to answer questions about the pervasiveness of the liability insurance issue. Since the fall of 2024, there has been significant national reporting about the Nonprofits Insurance Alliance’s (NIA) decision to stop insuring foster family agencies in the state of California,^[v] but working group members were hearing similar experiences about NIA and other insurance carriers from providers in other states. The survey was also designed to build understanding about the potential impact on providers and access to services for children and families. While foster family and adoption agencies have been named as a category of providers that are facing challenges obtaining affordable liability insurance coverage, there was little information about other services and supports that might be impacted in addition to foster care. Working group members shared the survey with providers across the country. Responses were accepted over an eight-week period, from April 22 through June 16, 2025. Underscoring the importance and pervasiveness of this issue, the leaders of 327 organizations across 46 states (all except Maine, New Mexico, South Dakota, and Vermont) took the time to answer detailed questions and share their experiences. One in three respondents identified themselves as the Executive Director or CEO of their organization.

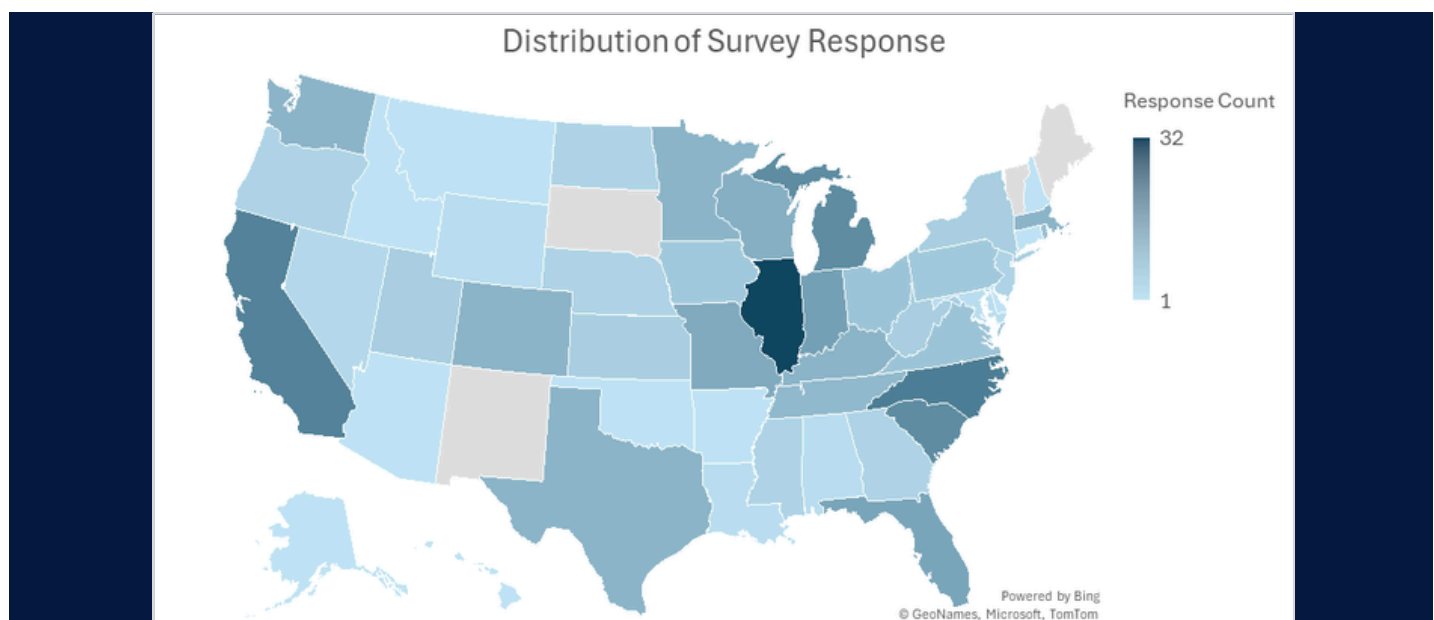


Figure 1. Survey response count by state (n=327).

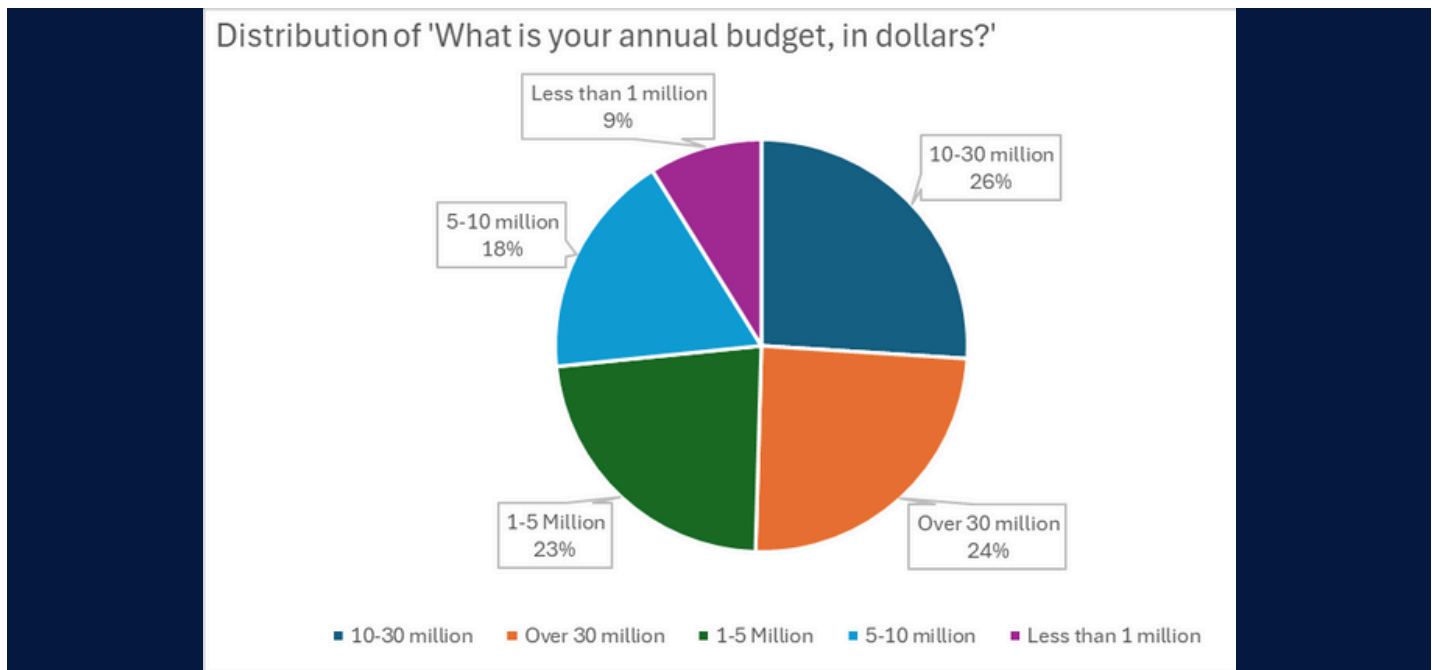


Figure 2. Distribution of survey respondents (n=327) by annual budget.

Survey respondents reflected the field:

- primarily nonprofit organizations (87%)[1];
- a cross section of small and large organizations – with 50% of respondents having annual budgets under \$10 million and 50% having budgets over \$10 million;
- employing approximately 105,900 individuals; and
- serving children and families in a variety of urban, suburban, and rural communities.

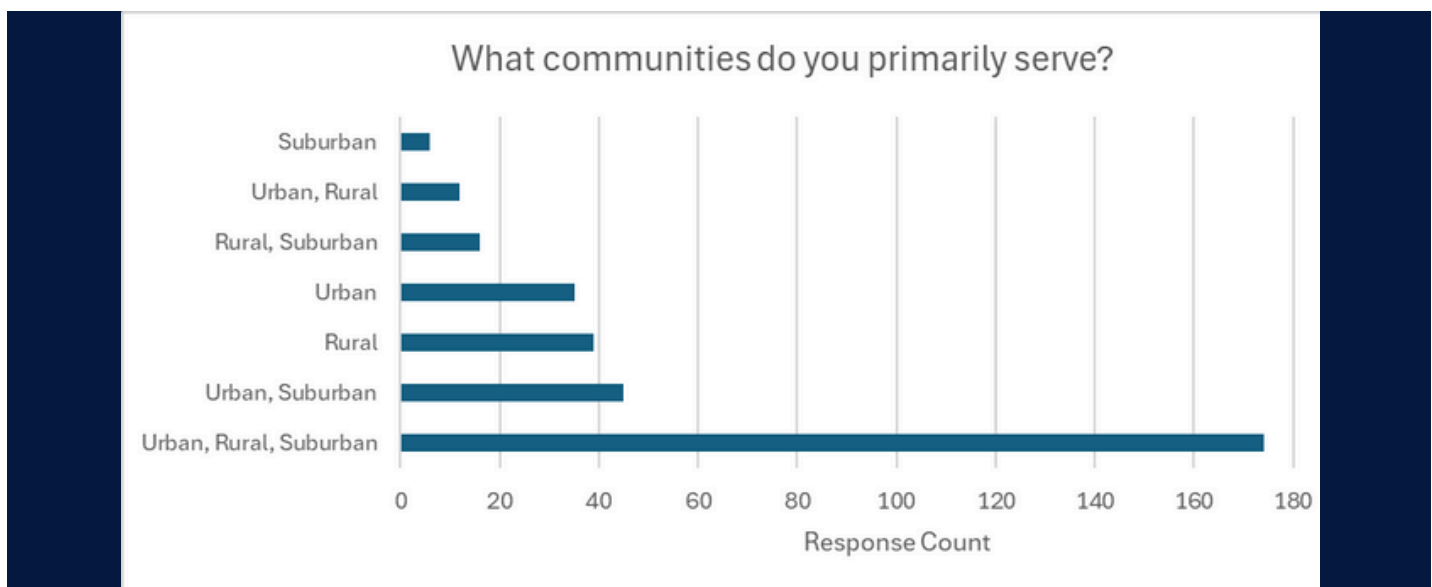


Figure 3. Survey response count (n=327) for communities primarily served. Respondents could select a single or multiple options (urban, rural, suburban).

[1] For-profit providers comprised 13% of respondents. Throughout the response data, there was no significant difference in patterns for nonprofit versus the small subset of for-profit providers. Thus, they are included without differentiation across the analysis.

All respondents were asked about the types of child welfare services they have provided in the last five years. “Foster parent recruitment and licensing” was the most common reply (57%) followed by “foster care case management” (52%) and “community-based counseling” (48%), but “community-based family preservation” (45%), “specialized or therapeutic foster care” (44%), and “traditional or stranger foster care” (43%), and “kinship foster care” (37%) were not far behind.

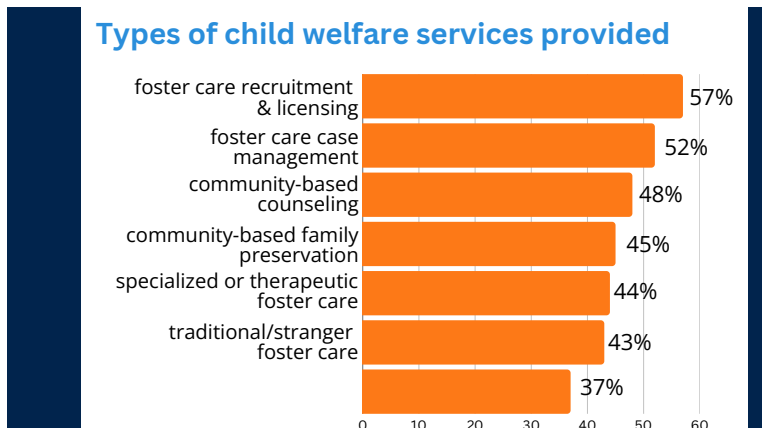
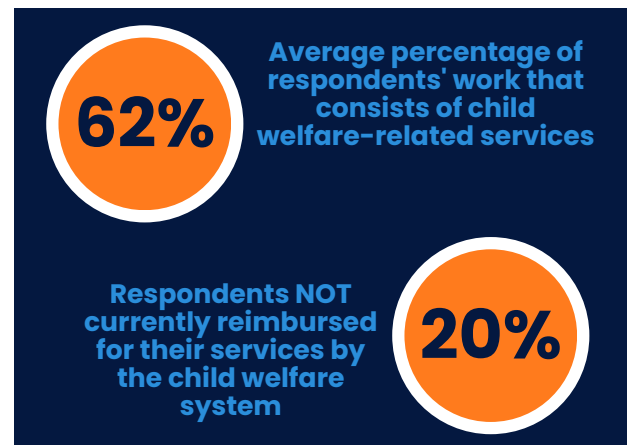


Figure 4. Distribution of survey respondents (n=327) by type of child welfare services they provide. Respondents could select all that applied from a list, including open-ended response to “other.” See Appendix 2 for the complete list.

Providers generally have diversified the ways they support child and family well-being; 75% of respondents indicated that they provide services outside of the child welfare system. Of those respondents, just under half indicated that they provide “community-based mental health services,” and the rest were a mix of education services including afterschool programs and childcare/early childhood schools, parenting or home visiting services, housing services, and substance use services, among others. In addition to their service array, most providers have diversified their sources of revenue. **Across respondents, on average 62% of organizational annual budgets represent reimbursement from child welfare-related services,** with a range of zero (n=17) to 100% (n=63).

One in five (n=65) respondents are not currently reimbursed for their services by the child welfare system. A deeper dive into those provider responses reflected organizations may have identified all or a majority of their revenue from child welfare services, but respondents clearly did not equate child welfare services only with reimbursement by the public child welfare system.[2]



The remaining 80% of respondents (n=262) from 43 states[3] answered detailed questions about their service delivery, general liability insurance, umbrella coverage, and sexual abuse and molestation coverage. Altogether, last year these providers served more than 400,000 children through child welfare prevention, family foster care, kinship care, reunification and/or adoption services, and therapeutic residential interventions.

Number of Children Served Last Year

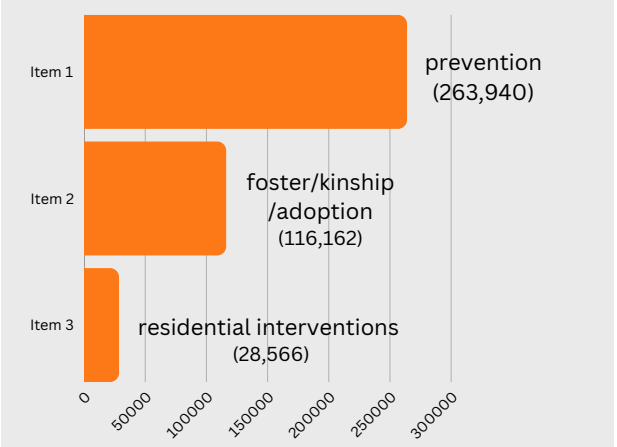


Figure 5. The sum of children served in 2024 in each of three categories as reported by respondents with valid responses (n=262).

Noting that this survey represents a sample and not the complete population of child welfare providers across the country, these organizations are supporting a significant number of children, parents, and family members in a wide variety of ways. Key findings from the survey and the additional materials reviewed are shared below, with deep appreciation to the many providers who contributed.

[2] See Appendix 2 – Survey Detail for more information about the service array provided by this subgroup.

[3] Only providers “currently providing services paid for by the child welfare system” were asked to answer questions about their service delivery and insurance coverage. See Appendix 2 – Survey Detail for more information.

Liability Insurance Trends

Answers to open-ended questions stated again and again that providers who had no claims against them were being dropped by their insurers, were paying considerably more money for less coverage, and were having challenges finding any insurer to provide coverage at all. This impacts their ability to serve youth and families, and many providers have eliminated or scaled back services because of the high cost or unavailability of insurance. Provider beliefs about increased insurance costs, expressed in collected qualitative responses, were supported by analysis of the numbers, including historical and current premium payments.

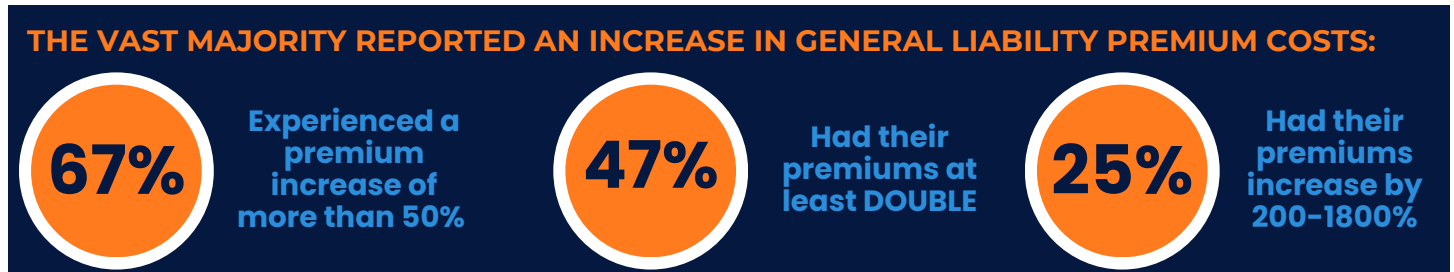
Premiums Are Rising Drastically Regardless of Claims History

Respondents were asked to provide the specific cost of their current general liability insurance premium and their premium costs in 2019. It was noted that, across respondents, their premiums typically paid for policy limits of \$1 million per incident (n=216) and \$3 million in aggregate (n=195).

The average premium increase of 163% since 2019 is unsustainable.

Of the providers who shared both current and 2019 costs (n=238), the vast majority (n=211) reported an increase in general liability premium costs[4]:

- 67% (n=142) experienced a premium increase of more than 50%;
- 47% (n=100) had their premiums at least double, with an increase between 100%-200%; and
- 25% (n=52) had their premiums increase by 200%-1800%.



To gain further insight into whether claims history was driving the drastic increases in premiums, the survey asked all respondents (n=327) whether they had a child welfare judgement or settlement in the past five years. There was no statistically significant difference between the small minority of the full survey sample who self-reported a claim or judgement in the past five years (13%) compared to the subgroup experiencing premiums that at least doubled. The data for increases in umbrella coverage premiums track the increases in general liability coverage premiums, although several respondents indicated that they did not have umbrella coverage in 2019 and that it was a new coverage line they obtained to meet various requirements from their contracting partners. The survey did not specifically ask about the difference in sexual abuse and molestation coverage premiums over time, because many providers obtain this coverage as part of a package as opposed to standalone coverage; however, the comments reflected the same trends across all three types of coverage.

[4] Reported as percentage increases, which is more meaningful than the changes in dollar amounts across organizations, which vary widely based on organization size, structure, location, and service lines. See Appendix 2 – Survey Detail for more information.



The insurance marketplace is changing rapidly.

General trends show an increase in liability insurance costs across lines of coverage and across sectors, but this survey demonstrates that child-serving providers are an outlier experiencing premium increases well above the norm. **“General liability premiums [across sectors] are rising at an average of 8%-12% annually, largely due to increased litigation and settlements.”^[vi]** Even if the average increase in general liability premiums reported by respondents of this survey was evenly distributed over the last five years, that would still translate to a 22% annual rate of increase, or about twice the norm. However, many respondents shared that their premiums have spiked in just the last year or two. Moreover, providers across the country are paying higher premiums for lesser coverage—or are unable to obtain coverage at all. Longstanding, high-quality providers with no claims against them are being impacted because the insurance marketplace is changing.

Provider Voices:

“Our organization has never had a claim. We are rated by the state and regularly score in the 95 percentile or higher based upon our quality.

Our carrier would not offer the \$5 million umbrella policy this year and offered \$1 million instead but raised the premium 400%.”

“We experienced a 100% increase in premium for a tenth of the coverage with no claims made against us.”

“We have never had any liability claims or losses, yet since 2019 our general liability premium has increased 182% and our excess liability premium has increased a staggering 1936%[.]”

WHAT INSURANCE CARRIERS SAY

Across the country, liability insurance carriers are non-renewing policies for community-based providers, sometimes across whole states or service types. Insurance carriers have pointed to large payouts for abuse lawsuits as part of their reason for non-renewing policies, although our survey findings demonstrate that most providers have faced insurance challenges despite having no lawsuits against them. In 2020, as part of sworn testimony before Congress, Pamela Davis, Founder, President, and CEO of Nonprofits Insurance Alliance (NIA), shared the history of how the nonprofit sector was especially impacted by an insurance capacity crisis in the mid-1980s, “fac[ing] huge rate increases, mass cancellations of coverage, and unavailability at any price of entire lines of insurance, as commercial insurers abandoned these markets.”^[vii] She forecasted that “certain nonprofits are once again finding it difficult to obtain even ‘package’ policies from commercial carriers,” particularly child-serving nonprofits.^[viii] History is repeating itself, only this time, on January 9, 2025, in an email to members, it was Davis who announced that, in addition to ongoing non-renewals and premium increases, NIA affiliates would issue no new lines of coverage for foster family agencies in any state. Her reasoning for NIA leaving the market, in part, was, “Given the judicial climate, following best practices and doing everything correctly is no longer the protection it once was.”

NIA is the most transparent, but not the only insurance carrier that has moved in this direction.

Sixty-five percent of carriers reported “they expect to see a hardening of overall insurance market conditions” over the next three years in terms of price, limits, and availability.^[ix]

Lack of insurers willing to provide coverage to agencies providing foster care and related services means that any insurer that does offer this coverage is not constrained by competitive market forces and can charge exorbitant rates, even to nonprofits with small budgets and no prior claims. Rising property and auto coverage compounds the issue. The challenge will only increase as more carriers increase premium costs, reduce coverage options, or pull out of states or coverage for child welfare providers entirely.

Some of the largest insurers of nonprofit child welfare service providers have limited their coverage offerings, exiting some states completely and refusing to take on new clients in others. As a result, some providers have turned to the excess and surplus market, where they pay even more and may receive lower quality coverage. Across general liability, umbrella, and sexual abuse and molestation coverage, 63% of providers (n=165 of 262) reported they had changed carriers in the last five years.

When asked why their carrier changed, the following themes emerged:

Coverage Limitations (137 mentions)

Many providers reported that they were forced to switch due to carriers reducing coverage limits, shifting to claims-made policies, or introducing unaffordable deductibles (*and statutory or contractual requirements often mandate certain coverage, including high policy limits or specific types of policies*).

Example quotes:

- “Couldn’t meet contract requirements with current limits.”
- “Carrier changed coverage terms, reducing umbrella limits.”
- “[T]his year we needed to add an additional \$1 million in coverage from another carrier, which is still not quite enough to meet some of our contracts. We are currently negotiating for lower required coverage on our contracts.”

Premium Cost Increase (51 mentions)

Rising premiums were a major reason for switching carriers, with some providers actively shopping for more affordable rates.

Example quotes:

- “Changed carriers to lower costs.”
- “Premiums increased despite no claims.”
- “Our prior carrier raised the premiums...This was 100% due to our [a]doption-related services.”

Carrier Exited Market (50 mentions)

Several carriers withdrew from the child welfare or social services sector, citing the high-risk environment, regulatory changes, or litigation trends.

Example quotes:

- “Carrier left the state of South Carolina.”
- “Carrier stopped insuring in California”
- “Past insurance carrier no longer writes this line of service.”
- “Carrier exited the market for foster care services.”

Nonrenewal by Carrier (51 mentions)

Many providers reported that their carriers refused to renew policies, even for organizations with no claims or losses.

Example quotes:

- “Our previous carrier chose not to renew despite no claims.”
- “[Our carrier] issued a non-renewal notice to us. [We are] currently on a 15-day extension to find a new carrier.”
- “We are dropped each year for providing sex offender treatment and for working with kids who have a history of sexual abuse.”

Broker or Service Change (45 mentions)

Some providers proactively changed carriers or brokers to improve service, access better expertise, or secure policies better aligned with their needs.

Example quotes:

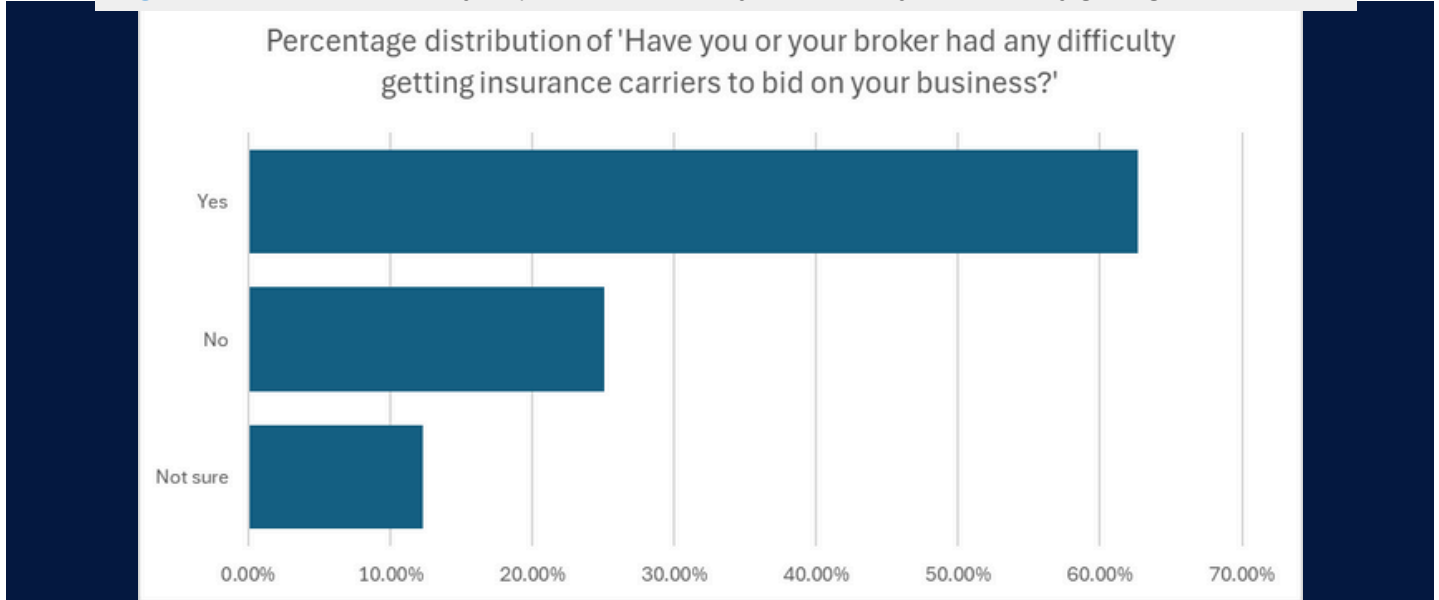
- “Broker changed for better service and more competitive quotes.”
- “Switched brokers for specialized expertise.”
- “Needed a broker familiar with child welfare risk.”

Overall, provider comments make it clear that the crisis in liability insurance access is not driven solely by cost but also by market exits, shrinking coverage, and carrier risk aversion. Even agencies with clean records face volatility and uncertainty.



The final section of the survey was available to all 327 respondents and asked general questions about insurance market experiences. Nearly two-thirds (63%) of survey respondents (n= 205) reported that they (or their insurance broker) had trouble getting insurance companies to even provide quotes for coverage.

Figure 6. Distribution of survey respondents (n=327) by whether they had difficulty getting insurance bids.



Interestingly, the challenge of getting insurers to provide bids is not equally distributed across the respondents. Only 29% of providers with annual budgets less than \$1 million report difficulty getting bids compared to 63% across all budget levels. In contrast, 78% of providers with budgets greater than \$30 million report difficulty obtaining bids for coverage. Both results represent a statistically significant difference from the average. While there are no similar patterns in premium increases, for now, small providers with less complex operations and serving fewer individuals seem to have more success finding an insurance carrier to meet their needs, although they may be less well-positioned to absorb looming market changes.

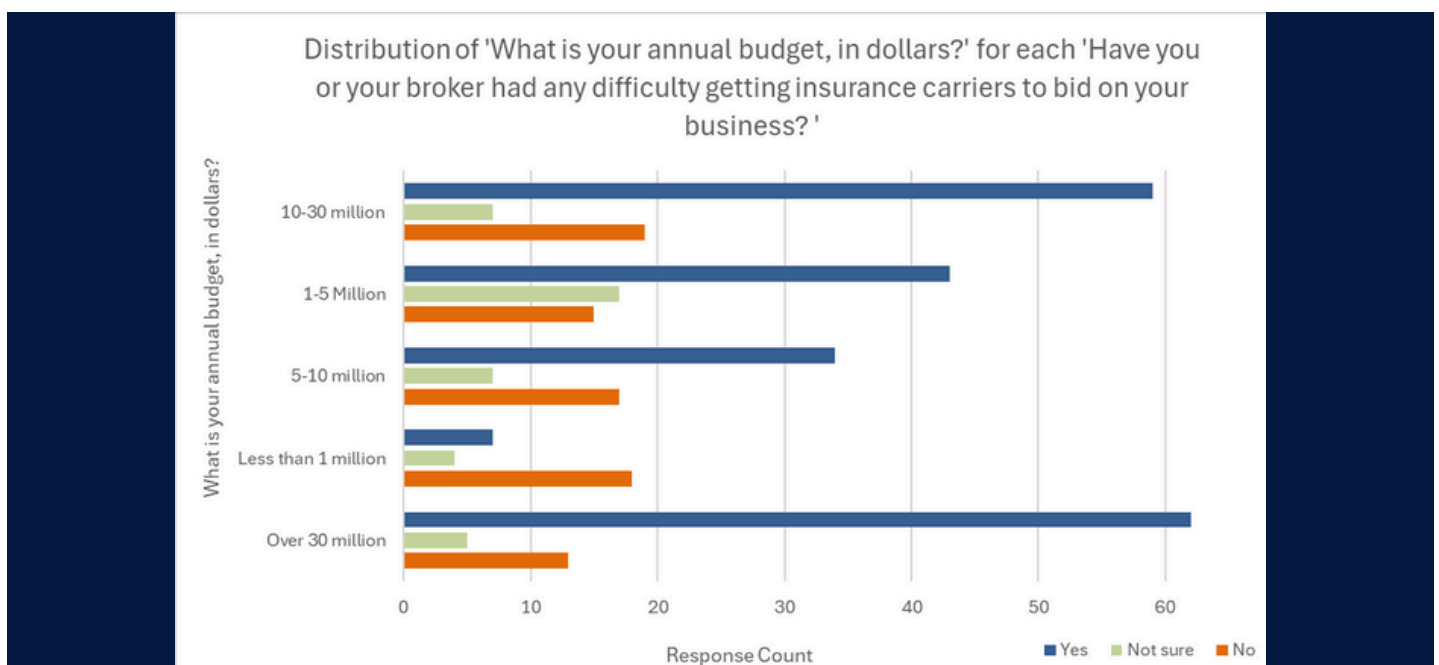


Figure 7. Survey response count (n=327) visualizing the difference in respondent difficulty obtaining insurance coverage bids by organization budget range.

On the other hand, larger agencies with more complex operations, providing a variety of services and serving more people, seem to be more likely to struggle accessing bids, and concerningly, may have more options to move away from services to children and families because they are performing a great number of services to meet their mission. Agencies with budgets greater than \$30 million reported opening supportive housing apartment complexes, engaging in or leading community impact-driven programming, providing domestic violence and sexual assault services, services to migrants, aging and senior services, vocational services, telehealth and medication management, crisis stabilization services, veterans' mental health and supportive services, and more.

Although this survey asked solely about liability insurance, many respondents added comments explaining that liability insurance is only part of the insurance crisis they are facing, with property, vehicle, and cyber-security coverage (sometimes required by state statute) also becoming unavailable or prohibitively expensive.

Without interventions—whether legislative, regulatory, or collaborative market solutions—many child and family service providers may be unable to maintain required insurance, threatening their ability to continue operating vital programs.



“NN4Y’s members—who serve youth experiencing homelessness and those involved in public systems—are seeing their mandatory liability insurance costs skyrocket. These rising costs are forcing providers to make impossible choices: scale back critical services, turn youth away, or shut down entirely.

We urgently need real, systemic solutions to ensure community-based nonprofits can continue providing the vital care and support our most vulnerable children and youth rely on. Without action, we risk unraveling a safety net that has taken decades to build.”

– Darla Bardine, CEO, National Network for Youth



Provider Voices:



“Insurance is our 3rd highest expense behind payroll and rent.”

“Our long-standing carrier will no longer cover any services [in our state] pertaining to services for foster youth (including wrap-around services), so we need to find a new carrier as of July. Based on preliminary estimates from our broker, our cost will more than double, and perhaps triple.”

“The State is not taking any action to ease the challenges around insurance. It is getting to the point that nonprofits will not be able to afford insurance and will have to close down. Wind and hail deductible is 3% of the value of the building. We have deductibles in excess of \$100,000. What nonprofit has an extra \$100,000 sitting around to replace a roof? Auto is the same. Even though we have a good record, they may not extend auto coverage in the future. In 2019, the total cost of all business insurance was \$170,000. Today it is \$358,000. That is a 47% increase over five years.”

“The increases don't just apply to liability coverage, we are seeing increases across the board. In fact, we are currently being nonrenewed on our property and auto policy next period as the carrier is leaving the property market in our area altogether due to catastrophic wind and hail risk exposure leading to a loss ratio greater than 100%.”

“Our premiums have more than doubled over the past few years. We have never had any claims[.]”

“Our broker reports that other carriers will not even LOOK at providing coverage to our agency due to adoption services, INCLUDING post adoption work.”

NATIONAL SURVEY RESULTS ALIGN WITH STATE-BASED TRENDS

This survey included responses from almost every state, and its findings are consistent with previous research, surveys, and news reports from across the country.

For example, the **Texas Alliance of Child and Family Services**

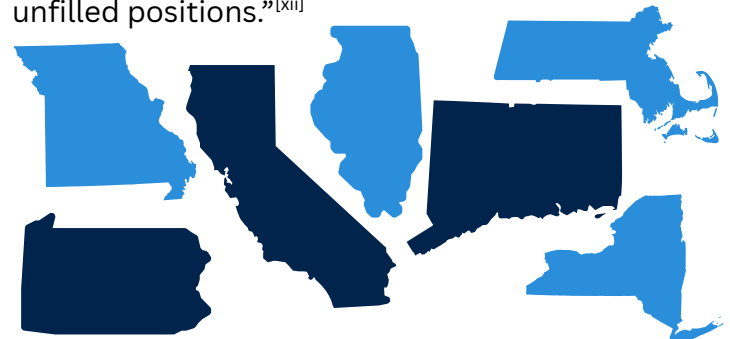
surveyed their members, and more than half had experienced a premium increase of 50% or more in the past five years; nearly three-quarters had changed coverage in the past decade because of market constraints.^[x] The organization also warned that “providers are unable to expand services or take on higher-needs children due to prohibitive insurance costs and outright refusal of carriers to provide coverage,” and that thousands of children could lose their placements because of this issue. They also noted that their providers could not identify a consistent cause of the insurance premium increases (i.e., they were not tied to services provided or claims histories).



"Most news reports have focused on the impact of the liability insurance crisis on foster care. Through this survey, we hoped to add to the discussion and shine a light on how this issue is also impacting prevention, family support and preservation, and a host of other services that support children and families."

-Lisette Burton, Chief Policy & Practice Advisor, ACRC

In Michigan, where approximately half of children in foster care are served by community providers, a provider report explained that thousands of children could return to the custody of public agencies, warning “public child welfare systems are neither adequately staffed nor funded to absorb such a dramatic influx. This could exacerbate existing placement shortages and place further strain on a workforce already struggling with hundreds of unfilled positions.”^[xii]



News reports and child welfare provider groups in **California, Connecticut, Illinois, Massachusetts, Missouri, New York, and Pennsylvania**^[xiii] have also called attention to the insurance crises in their states and the risks they pose to services for youth and families. In this current climate, providers cannot simply demonstrate risk management policies and strategies to obtain affordable, accessible liability insurance coverage. Organization leaders and boards of directors are making tough calls right now about how to fulfill their missions and sustain their work.

In Georgia, based on a survey of community providers, Together Georgia concluded that “[w]ithout immediate action, up to 5,000 foster children could lose their placements within the next 12 to 24 months.”^[xi]



Other findings from the Georgia survey were consistent with this national survey, with providers sharing that they faced high costs, limited availability for liability insurance, and significant challenges with other insurance types as well. **More than 90% of providers in Georgia reported “significant” increases in insurance premiums, and “52% of providers had only one insurance carrier willing to provide DHS-required coverage.”**

“Insurance constraints are also chilling foster parent recruitment and threatening retention. Agencies are being told by their insurance companies not to grow or even start new programs, and soaring premiums are forcing cuts to critical supports like training, respite, and 24/7 crisis response. Without these, foster families burn out—and children lose stable placements.” **—Kevin Roach, CEO, MCHS Family of Services**

Going without insurance coverage is not an option.

Child welfare services have historically been delivered by community-based service providers through public-private partnerships. Although governments are largely immune or limit their own liability for wrongdoing, almost all states treat nonprofits like any other business for liability purposes. To protect their staff, clients, and organizational sustainability, community service providers must maintain a range of insurance plans, including general and professional liability, property, and auto insurance.

Furthermore, most providers are compelled by statute or contractual agreement to obtain and maintain liability insurance coverage at specified limits as a prerequisite to service provision on behalf of or in partnership with public child welfare agencies. In many instances, public agencies further limit their own liability by requiring service providers to indemnify them against claims, even for actions attributable to the public agency staff rather than the provider; which increases both risk and insurance premiums. In this survey, several providers shared that they are (or soon will be) unable to obtain the coverage they are required to have under their contracts with public agencies (e.g., high value umbrella policies, or “claims-made” rather than “occurrence-based” policies) because those policies are not available from any insurer in their state.

Several states have begun taking steps to address these issues. Legislation recently passed in Texas to separate out nonprofit providers who are providing high-quality services from those who are not, with the hopes that insurers will return to the market in the state.^[xiv] There is also a movement in states to ensure that the appropriate entities are held responsible for harm by prohibiting public agencies from requiring community-based providers to indemnify (i.e., take legal responsibility for) the state/county agency’s own acts or omissions.

Along those lines, legislation recently passed in Missouri^[xv] and Florida^[xvi] to limit third-party liability, so providers are only liable for their own wrongdoing, not that of the public agency. Unfortunately, at least one major insurer has indicated that the law passed in Florida “is unlikely...[to] stem the exodus of insurers leaving this market.”^[xvii]



Provider Voices:

“The coverage requirements have become more costly than the compensation we get from child welfare for provided services.”

“Most carriers consider us high risk because of the work we do. We anticipate our premiums going up again this year. It is difficult to find carriers that want to insure us, even for the minimum requirements stated in our contract with the state.”

“It is a huge liability for our agencies that we have to indemnify the state in our contract.”

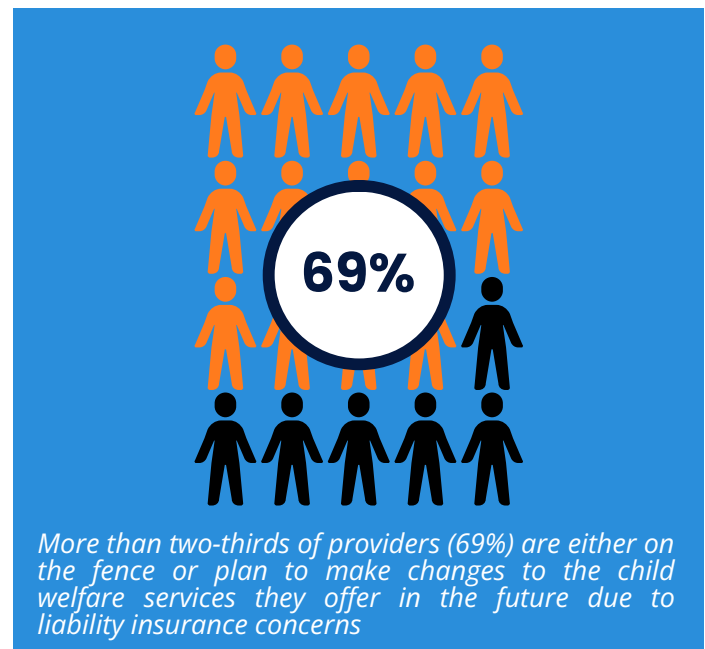
“Our very rural nature has put us in a place where we have struggled to find a carrier and when we find a carrier we have so many carveouts that the coverage offered does not work.”

Insurance Challenges Will Impact Quality and Availability of Services for Children and Families

Many providers in this survey, and in public reports, have emphasized that increased insurance costs force them to reduce services. In some cases, this may mean fewer staff available to support caregivers and youth, in others it may mean losing foster family care placements altogether. Additionally, in several states, even though public agencies are delivering some child welfare or foster care services, community providers are responsible for key areas like kin licensing, therapeutic foster homes, or qualified residential treatment programs.^[xiii] Loss of services due to insurance issues threatens to undermine decades of work moving the child welfare field away from placement crises that leave children sleeping in child welfare offices and towards a fully developed service continuum where children have the best opportunity to remain with their families, to be cared for by kin, or to receive care in a foster family home when a child welfare placement is necessary.

In discussing these difficult choices, many survey respondents were palpably frustrated; simply put, providers want to spend their funds on serving youth and families, not insurance. From this survey sample alone, almost \$200 million^[5] in public funds are being diverted from services to children to pay annual insurance premiums. While some providers indicated that they are “making it work” with insurance challenges right now, they do not expect to be able to do so in coming years. In some cases, this belief is driven by what their insurance brokers are forecasting about future rates and availability of coverage.

When asked “how likely are you to make changes to the child welfare services you offer in the future,” only nine percent of respondents indicated that they were “very unlikely” to make changes. Two-thirds of survey respondents were willing to contemplate or were planning to make changes, *due to liability insurance concerns*.^[6]



There was no significant difference in responses to this question between the 25% of respondents who indicated they do not provide services outside the child welfare system and the 75% of respondents who have a more diversified service array. Providers with a diversified service array are more readily positioned to pivot away from child welfare-related services, should their Boards of Directors make that decision, but providers regardless of service array are expressing a similar amount of concern.

[5] \$197,813,230 was the total current year liability insurance expense just from this sample of providers (n=238) including the sum of self-reported general liability, umbrella, and sexual abuse and molestation policy premiums.

[6] The options for response on a Likert scale were “very likely,” “likely,” “neither likely nor unlikely,” “unlikely,” and “very unlikely.” Analysis of this question in the context of open-ended responses indicated that “neither likely nor unlikely” was largely interpreted as contemplating change. In some instances, respondents selecting “neither likely nor unlikely” had already made changes due to liability insurance concerns, making additional change not applicable. See Appendix 2 for additional detail.

On a hopeful note, when asked whether they had reduced child welfare service contracts due to liability insurance concerns, 85% of providers said “no.” For some, that was because they already did not have a child welfare contract or had recently ended child welfare programs, but others are trying to maintain their work. California recently added \$31.5 million to the budget to address rising insurance costs and prevent foster family agencies from closing,^[xix] but this is a temporary band-aid to provide time to find more sustainable solutions. With collaborative action, there is still an opportunity to curb this unsustainable trajectory and strengthen the public-private partnership essential to supporting child and family well-being.

Have you reduced or eliminated child welfare service contracts due to liability insurance concerns?

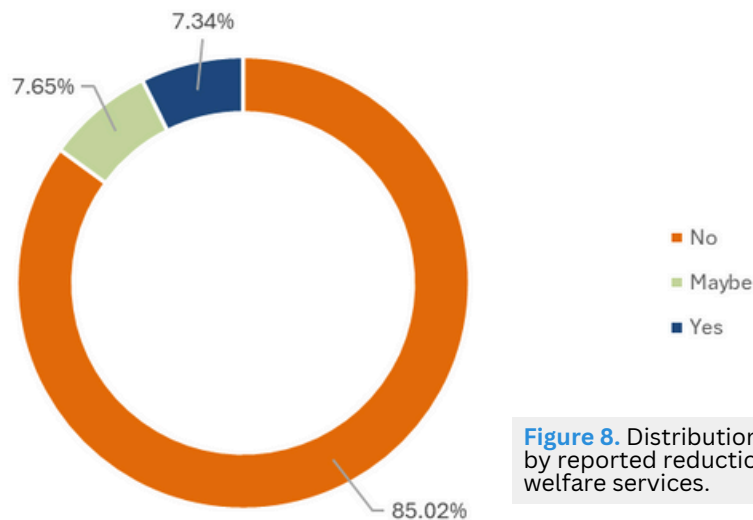


Figure 8. Distribution of survey respondents by reported reduction or elimination of child welfare services.

Provider Voices:

“If we are unable to obtain the insurance coverages requested by local counties and other partnerships, we risk not meeting insurance requirements to join contracts with other agencies. This means we could not accept new youth and would have to close down our [child welfare services].”

“The ongoing liability insurance crisis has created significant financial strain and barriers for the young people we serve...Without urgent action to ease these burdens, the financial strain could force agencies such as ours to cut programs, reduce participation, or, in the worst cases, discontinue vital social services altogether. The youth we serve deserve reliable access to the opportunities that prepare them for success, and the insurance crisis threatens to deprive them of these essential experiences.”

“We are assessing closing one to two programs in the next year due to the cost to provide liability coverage. The increase in liability coverage is more than one of our programs causing the increase even brings in annually (foster care).”

“We take the increase in premiums under consideration when setting foster care per diem rates for county contracts. We do not intend to eliminate services, but the cost of services will have to continue to increase as long as insurance premiums are increasing.”

“We have been trying to work with our state legislators but most are not familiar with the problem and when we make them familiar, their response is generally, “I am not sure what we can do to help.” - Service provider

CALL TO ACTION AND POTENTIAL SOLUTIONS

Youth and families who have been harmed should absolutely be able to bring lawsuits and recover damages from responsible individuals and organizations. All youth and families should also be able to receive the supports they need. In many instances, that requires service provision from high-quality community providers, through public-private partnerships. When providers with no suits or claims against them are unable to obtain or afford insurance—and begin closing programs as a result—the continuum of care in communities, and the children and families who depend on it, will be impacted. Additionally, just in this survey sample, approximately \$200 million in public funding and donor dollars are being spent on essential liability insurance coverage this year. As good stewards of limited resources, we owe it to our children, families, and communities to develop solutions that address this trajectory without undermining safety or quality of care. An accelerating insurance crisis is impacting child welfare service providers across the country and calls for a federal response.



“I think people who have been harmed should have opportunities to recover from that harm. The complexity of it is, how do you make sure that people get the kind of restitution that they’re entitled to without also completely undermining the community-based infrastructure that serves kids and families today?”^[xx]

Andrea Durbin, CEO,
Illinois Collaboration on Youth

Partners must work together to look at the data and address the underlying challenges.

When the Senate Committee on Banking, Housing, and Urban Affairs was examining challenges in the property insurance market and the impact on consumers, the National Association of Insurance Commissioners (NAIC) committed that chief insurance regulators in every state would collect data from insurers to better understand property markets, coverages, and protection gaps, especially when related to challenges around the availability and affordability of property insurance.^[xxi] Similarly, building off the state and national data collected from providers, NAIC could play a pivotal role in addressing this liability insurance crisis.

Regulators, public agency leaders, lawmakers, and community-based providers, in partnership with youth and families, should work together to identify strategies that will ensure accountability for wrongdoers while allowing effective child and family-serving organizations to remain viable and available to families and communities in need.

Congress has provided federal solutions in other sectors impacting the public good and should step in here, because both the federal and state governments have a special, shared responsibility to support effective child welfare system infrastructure.

Congress has addressed insurance marketplace limitations and failures in other sectors. There are current proactive and responsive examples that could be models for how Congress, in partnership with states, might intervene:

- The Liability Risk Retention Act of 1986 amended the law to expand access to liability insurance through risk retention groups and risk purchasing groups with the aim of helping organizations that were priced out or shut out of the insurance market.^[xxii]
- Federally Qualified Health Centers have medical malpractice liability coverage through the Federal Tort Claims Act.
- The Terrorism Risk Insurance Act created a temporary federal program that provides for a transparent system of shared public and private compensation for certain insured losses resulting from a certified act of terrorism. The Secretary of the Treasury administers the program with the assistance of the Federal Insurance Office.

Solving this challenge will likely require a suite of policy solutions, not a one-size-fits-all approach.

There are several recommendations that could potentially help achieve the goal of ensuring both accountability and a service continuum that can meet youth, family, and community needs. These include:

- a reinsurance program supported and guaranteed by the federal government;
- a national risk pool, that encourages insurers to participate in the child welfare insurance market by spreading risk more widely across states and organizations; or
- federal incentives for insurance providers to cover child welfare organizations, paired with quality assurance measures that ensure better outcomes for children and families (i.e., premiums or coverage tied to an agency's actual performance and compliance with best practices).

Groups ranging from the American Enterprise Institute to Social Current have discussed some of the above ideas, and suggested others, including a victim compensation fund^[xxiii] or federal legislation to address affordable coverage.^[xxiv] These are just a few possible solutions that protect the rights of victims to recover when they are harmed, incentivize high-quality service provision, and ensure that needed services remain available in our communities.



There are solutions, if we have the will to act; achieving them will require creativity, collaboration, and urgency. Providers are being dropped from their insurance right now, with no viable alternatives. Public agencies and our neighbors are counting on those services and supports to be available in our communities when needed. The community providers who participated in this survey, along with members of the federal working group on this issue, stand ready to partner with other child welfare stakeholders and policymakers to explore and develop these and other solutions.



CONCLUSION

The crisis in liability insurance for child welfare providers is widespread, severe, and threatens the viability of services for vulnerable children and families. Many providers maintain excellent safety records and have no claims history, yet they face untenable costs and reduced access to necessary coverage. The data and feedback obtained through this national survey underscore the urgent need for solutions that will ensure community providers can continue to fill their essential role in serving children, families, and communities.

“In an environment where our most vulnerable children, youth, and families are already facing access and coverage barriers, to increase liability and other required insurance for organizations (some with shoestring budgets) will only lead to the inability to hire necessary staff and even further decreased supports for families. These increases essentially take away direct service dollars to pay exorbitant premiums. Who ends up suffering? Children, youth and their families.”

**- Millie Sweeney, Director, Learning and Workforce Development,
Family-Run Executive Director Leadership Association (FREDLA)**

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[viii] Ibid.

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APPENDIX 1 – Glossary of Insurance Terms Used in this Report

Insurance Terms

This glossary is an abbreviated list of key insurance terms adapted and edited for clarity from the “Glossary of Risk Management and Insurance Terms”, published by the Nonprofit Risk Management Center. Their complete glossary can be accessed at <https://nonprofitrisk.org/resources/glossary-of-risk-management-and-insurance-terms/>.

Aggregate limit — Maximum amount that the insurer will pay under a liability policy during one annual policy period, regardless of the number of occurrences, usually in addition to legal defense costs. For general liability, policies are sometimes written with the aggregate limit applying separately to each scheduled location.

Alternative market — Nontraditional risk financing, including risk retention groups, risk pools, self-insurance and captive insurance companies.

Broker — An insurance professional/intermediary who markets and explains insurance products to insureds and prospective insureds. Brokers are typically licensed by a state to place insurance on behalf of clients (individuals and organizations) with any number of companies, while others represent a single insurer. A broker technically represents the client.

Captive insurance company — Subsidiary of one or more parent or member organizations formed for the purpose of insuring the exposures of the parent or member organization(s).

Charitable risk pool — A nonprofit property/casualty insurance company that insures nonprofit organizations and qualifies as a charitable risk pool pursuant to federal tax laws and is exempt from federal income tax. A qualified charitable risk pool may only be comprised of nonprofit organizations that qualify under section 501 (c)(3) of the Internal Revenue Code.

Claims-made basis — A liability coverage form that requires that claims be reported to the insurance company while the policy is still in force in order for coverage to apply. In other words, a claim must be made while the policy is in force. The claims-made form is one of two types of liability policy forms. The other more common form is called occurrence form. Under an occurrence form policy, a claim occurring during the policy term may be reported to the insurance company at any time, even years after the policy expires.

Deductible — Amount deducted from a loss. The deductible is an amount assumed in advance by an insured as required by the insurance company or as a means of obtaining a lower premium for the coverage. Also, the amount of the loss that the insured must pay.

Excess and surplus lines carrier — Insurer that is not admitted (not licensed) to do business in a particular state, but is permitted because coverage is not available through licensed insurers.

Excess liability insurance — Provides coverage over and above primary insurance. The coverage is triggered when the amount of a loss exceeds (exhausts) an existing primary policy. Excess liability coverage mirrors the terms and conditions of the underlying policy.

APPENDIX 1 – continued

Indemnify — To compensate for actual losses sustained.

Liability insurance — Insurance covering the financial risk of civil lawsuits.

Long-tail exposure — Exposures for which a claim might be filed long after the insurance policy or policies expire. Loss may not be recognized for many years, involving such latent injuries as asbestos, medical malpractice, and sexual abuse or molestation.

Occurrence-based — A form of liability coverage that covers claims that occur during the policy period, and for which claims can be reported to the insurance company at any time during or after the policy period, even years after the policy expires.

Premium — The payment for an insurance policy or bond.

Property insurance — Insurance that covers direct damage to the nonprofit's property and equipment including consequential losses (business income, loss of rents, extra expense) caused by an insured peril.

Risk-financing pools — A mechanism where multiple entities come together to share the financial burden of potential losses, typically by pooling their contributed premiums to finance losses.

Self insurance — When an organization's own resources (internal) are used to fund losses. An organization may self-insure risks through a formally structured risk-financing program, such as a captive insurer, or by setting aside funds to pay for losses. A nonprofit can also be self-insured on an informal basis when it has made no arrangements to finance losses and must use operating funds when losses occur.

Sexual Abuse and Molestation Insurance — Historically, until the mid-1980s, coverage for sexual abuse claims who not always addressed specifically within policies, thus leaving the policies open to interpretation. Policyholders would claim that their general liability policies provided coverage, while insurers disagreed. Today sexual abuse and molestation coverage can be proactively covered in a variety of ways: as a stand-alone policy form developed specifically to address this coverage, as a separate section of a package policy, or as an add-on to a professional liability policy.

Umbrella liability insurance — Provides excess coverage over several primary policies, such as general liability, auto liability, and employers' liability. Increases the amount of liability insurance beyond that of the underlying policies carried by the insured and covers some claims not covered by underlying policies.

APPENDIX 2 – SURVEY DETAIL

Survey Distribution

This electronic survey was widely available and distributed through an online link to providers of child welfare and related services across all 50 states via national and state organization listservs. ACRC, NOSAC, and members of the Child Welfare Liability Insurance Working Group shared the survey announcement through their respective networks. The survey was open for responses for eight weeks, from April 22 through June 16, 2025 (the initial deadline was May 9, 2025, but there were several requests for more time). Private provider organizations that “provided any services related to foster care and child welfare in the last five years” were invited to contribute one response per organization.

Survey Respondents

There were 337 responses to the survey. Ten of the responses were duplicate organizational responses. Seven of the ten duplicates were survey responses completed by the same person at a later date. Knowing that this is a rapidly changing environment, we used the most recent response for multiple-choice and numerical questions and combined responses to open-ended questions. Three of ten duplicates were completed by different people at the same organization. We used the most complete response from the most senior leader. The survey instructions stated that:

“The organization leader most familiar with your liability insurance coverage should be the person to complete the survey on behalf of your organization. If you are an organization with a complex and or/multi-state structure, please ensure a leader from each entity/state that holds the policy completes this survey separately. Before you begin the survey, please have access to your current liability policies, as well as your policy information from 2019 (to help us show the changes over time). We suggest you contact your broker if you don’t have this information, and your broker can help you complete this. This survey also asks for general information about your organizational budget, services you provide, and number of children served in 2024 and in 2019.”

This report is based on responses from 327 unique organizations across 46 states (all except Maine, New Mexico, South Dakota, and Vermont).

Data Collection and Analysis

The survey was divided into five sections and contained a total of 54 questions. The complete list of survey questions is available at: <https://bit.ly/LiabilityInsuranceSurvey>.

Survey Section 1 – Contact Information

Although all responses were anonymized, we did collect mandatory information from the person completing the survey, including email address, first name, last name, organization name, and title at the organization. We applied this information when solving for duplicate organizational responses and it allows for potential follow-up with respondents who indicated an interest in having their experiences highlighted as part of an example or case study (this was the final question of the survey).

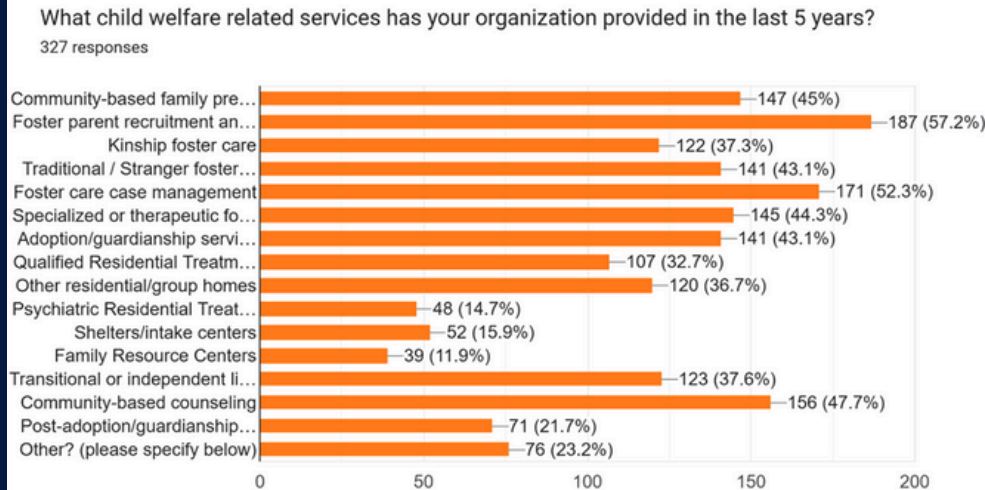
Survey Section 2 – Organization Information

This section included questions about the organization’s location (including an opportunity to describe whether they served urban, rural, and/or suburban communities), number of employees, and annual budget to help understand the organization’s size and reach. The survey also asked about tax status. Knowing that most child welfare providers are nonprofit organizations, we wanted to know that our survey sample reflected the general provider mix nationwide.

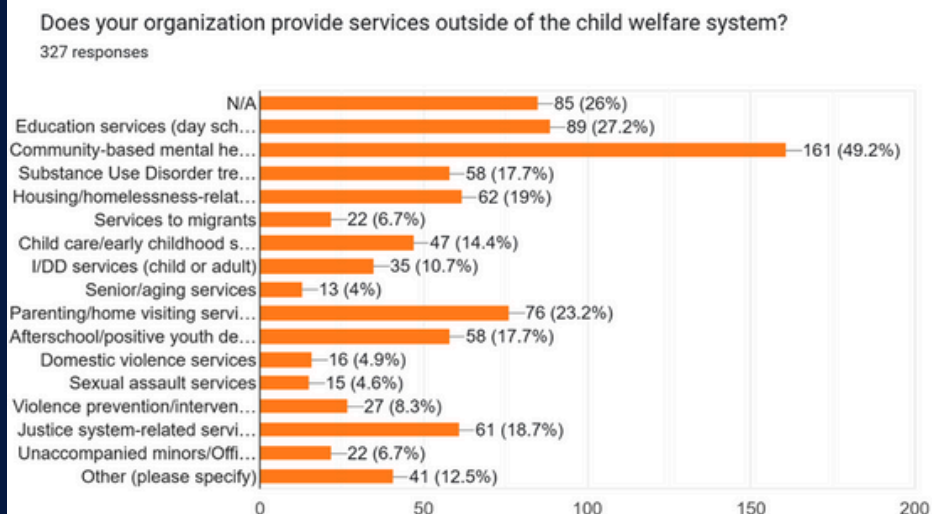
APPENDIX 2 – SURVEY DETAIL

Survey Section 2 – Organization Information cont.

To gain insight into how much each organization's work was related to child welfare, we asked, “Approximately what percent of your organization’s current budgeted income is from child welfare services?” We also asked, “What child welfare services has your organization provided in the last five years?” Respondents could select all applicable types of service from a list and add in “other” services through an open-ended follow-up question. **The figure below represents the distribution of child welfare-related services that respondents provide.**



We were also interested to know what other services respondents might be providing in their communities. Respondents were asked, “Does your organization provide services outside of the child welfare system?” This was a mandatory question. One in four respondents selected “N/A.” **The remaining three in four respondents selected a variety of services outside the child welfare system, detailed in the figure below.** Respondents could select all applicable from a list and add in “other” through an open-ended follow-up question.



APPENDIX 2 – SURVEY DETAIL

Survey Section 2 – Organization Information cont.

Because we were focused on the impacts of the liability insurance crisis on the public-private partnerships essential to children’s services, we asked respondents if they currently provide services paid for by the child welfare system. If they answered “yes,” they were directed to answer detailed questions in Sections 3 and 4 about their service delivery, general liability coverage, umbrella coverage, and sexual abuse and molestation coverage. If they answered “no,” they were directed to the final section, Section 5.

One in five respondents (n=65) answered “no,” and proceeded to the questions in Section 5. Four in five respondents (n=262) continued to Sections 3 and 4. The subgroup of providers not currently reimbursed by the child welfare system provide a variety of services, including: private adoption and guardianship, community counseling services, therapeutic programs paid for by Medicaid or other sources, mentoring services, shelters, and educational programs. They also operate as lead entities in privatized systems, serve as care management organizations, or, in the case of 8 providers in this subgroup, they recently closed their programs and ceased most or all operations due to dropped insurance coverage.

Sections 3 & 4 – General Liability Insurance Policy Questions and Sexual Abuse and Molestation Policy Questions

Respondents completing questions in the third and fourth sections were from 43 states. The three states in the total sample not represented in this subsection of the survey were the lone respondents from Alaska, New Hampshire, and Oklahoma, who each answered “no” when asked if they currently provided services paid for by the child welfare system.

The main body of the report regarding Liability Insurance Trends contains a detailed analysis of the information respondents shared in these sections.

Regarding premiums, of the providers who shared both current and 2019 costs (n=238), a small number (n=27) reported a decrease in premium costs, but comments revealed the reasons were lower coverage, a decrease in general liability costs but increases in other lines of coverage, and changes in their service lines, including no longer providing foster care services.

To identify whether increased premiums were due to changes in organization structure or expansion of services, all respondents (n=327) were asked whether their organization has “gone through a merger, or experienced other changes in size and scope of service over the past five years that would impact [their] liability insurance?” and if so, to please describe. Nearly a quarter—23% (n=75)—of respondents identified they had changes to their organization, but the changes were a combination of expansion (n=42), contraction including program closures (n=20), and changes with neutral or undescribed impact to size and scope (n=13). **Across patterns of fluctuation in premiums, changes in carriers, difficulty getting insurers to bid on their business, and expressed concerns regarding the insurance market, there was no significant difference between organizations that identified changes to their size and scope and organizations that did not.**

Section 5 – General Insurance Market Experiences

The final section of the survey was available to all 327 respondents and asked general questions about insurance market experiences. The main body of this report, identifying changes in the insurance marketplace, contains a detailed analysis of the information shared by respondents in this section.

APPENDIX 2 – SURVEY DETAIL

Future Data Analysis and Information Sharing

The broad analysis from this survey is intended to present the experiences of the respondents as captured at the time they completed the survey. Unfortunately, we know that some providers who completed this survey may already have experienced a change in their access to liability insurance coverage, possibly impacting their ability to serve their communities. **Based on the sample's size and diversity, trends revealed through this survey can inform a national dialogue and response.**

This report is intended to be an initial analysis of the data collected through this national survey of providers. There are many ongoing opportunities to:

- learn more within the existing data;
- build on the data through follow-up engagement with respondents and other stakeholders; and
- develop a deeper understanding of the challenges related to liability insurance coverage nationwide and how to support solutions.

New briefs, case examples, and other resources will continue to be added to a landing page at <https://togetherthevoice.org/insuringcare/>.



www.togetherthevoice.org/insuringcare

APPENDIX 3

10A NCAC 09 .1002 SAFE VEHICLES

- (a) Vehicles used to transport children enrolled in child care centers shall be free of hazards such as, but not limited to, torn upholstery that allows children to remove the interior padding, broken windows, holes in the floor or roof, or tire treads of less than 2/32 of an inch.
- (b) Vehicles used to transport children enrolled in child care centers shall comply with all applicable State and federal laws and regulations.
- (c) Vehicles shall be insured for liability as required by State laws governing transportation of passengers pursuant to G.S. 20-279.21.
- (d) Vehicles used to transport children in snowy, icy, and other hazardous weather conditions must be equipped with snow tires or chains as appropriate.

History Note: *Authority G.S. 110-85; 110-91(13); 143B-168.3;*
 Eff. January 1, 1986;
 Amended Eff. July 1, 1998;
 Readopted Eff. October 1, 2017.

APPENDIX 4

67 Pa.C.S. § 8102

§ 8102. Indemnification agreements.

(a) General rule.--A provision in a service provider contract in which a county agency or municipal government entity is indemnified, held harmless or insured for damages, claims, losses or expenses arising from any injury, including, but not limited to, bodily injury, mental anguish, property damage or economic or noneconomic damages or loss caused by or resulting from the county agency's or municipal government entity's negligence, in whole or in part, shall be void as against public policy and unenforceable.

(b) Definitions.--For the purposes of this section, the term "service provider contract" shall mean a contract, agreement or understanding regarding the provision of services subject to regulation under 55 Pa. Code Pt. V (relating to children, youth and families manual).

2022 Amendment. Section 3 of Act 127 provided that the addition of section 8102 shall apply to service provider contracts entered into on or after the effective date of section 3.

APPENDIX 5

CIVIL PRACTICE AND REMEDIES CODE

TITLE 4. LIABILITY IN TORT

CHAPTER 84. CHARITABLE IMMUNITY AND LIABILITY

Sec. 84.0068. LIABILITY OF SINGLE SOURCE CONTINUUM CONTRACTORS OR CERTAIN NONPROFIT ENTITIES PROVIDING COMMUNITY-BASED CARE OR CHILD WELFARE SERVICES.

(a) This section applies only to an entity described by Section [264.170](#)(a), Family Code.

(b) Subject to Subsection (c) and except as provided by Subsection (d), an entity may not be held liable for damages resulting from an act or omission of a person who is an employee or volunteer of the entity or a caregiver providing services on behalf of the entity if, at the time of the act or omission giving rise to the claim, the entity has:

(1) conducted timely criminal background checks for the person as required by law;

(2) before hiring, contracting with, or otherwise enlisting the services of the person and then at least once every five years, confirmed the person is not listed in a state registry or database that indicates the person is ineligible to supervise or treat children;

(3) reported any known allegation of misconduct by the person as required by law;

(4) taken timely and proportionate administrative or personnel action in response to deficiency in the performance of duties by the person; and

(5) required the person to complete training for:

(A) child sexual abuse prevention at least once every five years; and

(B) the reporting of child abuse and neglect.

(c) An entity may be held vicariously liable by a claimant on the basis of services received from the entity for the act or omission of a person who is an employee or volunteer

of the entity or a caregiver providing services on behalf of the entity only if the claimant shows:

(1) the entity was not in substantial compliance with a requirement described by Subsection (b) at the time of the act or omission giving rise to the claim;

(2) the requirement was designed to prevent the specific type of harm alleged to have occurred; and

(3) the entity's failure to be in substantial compliance with the requirement was a contributing factor in bringing about the harm.

(d) Subsection (b) does not affect the liability of an entity for damages resulting from the gross negligence of the entity.

(e) This section may not be construed to limit:

(1) the liability of an entity for a claim otherwise authorized by state or federal law; or

(2) the ability of a governmental entity to take administrative, regulatory, or prosecutorial action against an entity described by Section [264.170](#)(a), Family Code.

Added by Acts 2025, 89th Leg., R.S., Ch. 839 (S.B. [1558](#)), Sec. 1, eff. September 1, 2025.

APPENDIX 6

INSURANCE CODE

TITLE 10. PROPERTY AND CASUALTY INSURANCE

SUBTITLE G. POOLS, GROUPS, PLANS, AND SELF-INSURANCE

CHAPTER 2205. TEXAS CHILD-CARE FACILITY LIABILITY POOL

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 2205.001. DEFINITIONS. In this chapter:

- (1) "Board" means the board of trustees of the pool.
- (2) "Child-care facility" has the meaning assigned by Section 42.002, Human Resources Code.
- (3) "Fund" means the Texas child-care facility liability fund.
- (4) "Pool" means the Texas Child-Care Facility Liability Pool.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 2, eff. April 1, 2007.

Sec. 2205.002. POOL NOT ENGAGED IN BUSINESS OF INSURANCE.

(a) Except as provided by this section and Section 2205.003(b), the pool is not engaged in the business of insurance under this code or other state law, and this code and other state insurance laws do not apply to the pool.

(b) The pool is subject to:

- (1) this chapter;
- (2) the requirements of this code or commissioner rules relating to reporting liability claims information; and
- (3) the requirements of Chapter 2251 and Article 5.13-2 relating to making, filing, and approving rates.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 2, eff. April 1, 2007.

Sec. 2205.003. DEPARTMENT AND COMMISSIONER SUPERVISION.

(a) The pool is subject to the department's continuing supervision relating to the pool's solvency.

(b) The commissioner may set minimum requirements to ensure the capability of the pool to satisfy the pool's obligations.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 2, eff. April 1, 2007.

SUBCHAPTER B. CREATION OF POOL

Sec. 2205.051. CREATION OF POOL. (a) The Texas Child-Care Facility Liability Pool is created when the governing bodies of 10 or more child-care facilities agree in writing to participate in the pool.

(b) The pool provides liability insurance coverage for child-care facilities as provided by this chapter.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 2, eff. April 1, 2007.

Sec. 2205.052. PARTICIPATION IN POOL. A child-care facility is entitled to coverage from the pool if the facility:

- (1) submits a complete application;
- (2) provides other information required by the pool;
- (3) meets the underwriting standards established by the pool; and

- (4) pays the premiums required for the coverage.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 2, eff. April 1, 2007.

Sec. 2205.053. SELECTION OF TEMPORARY BOARD. At the time the governing bodies of the child-care facilities enter into the written agreement under Section 2205.051, the governing bodies shall select nine individuals to:

- (1) serve as the temporary board; and
- (2) draft the plan of operation for the pool.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 2, eff. April 1, 2007.

SUBCHAPTER C. PLAN OF OPERATION

Sec. 2205.101. TIME FOR CREATION OF PLAN OF OPERATION. (a) Not later than the 30th day after the date the last member of the

temporary board is selected, the temporary board shall meet to prepare a plan of operation for the pool.

(b) The temporary board shall complete and adopt the plan of operation not later than the 90th day after the date the last member of the temporary board is selected.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 2, eff. April 1, 2007.

Sec. 2205.102. CONTENTS OF PLAN OF OPERATION. (a) Subject to the requirements of this chapter, the plan of operation must include:

(1) the organizational structure of the pool, including:

(A) the method of selecting the board;

(B) the board's methods of procedure and operation; and

(C) a summary of the methods for managing and operating the pool;

(2) a description of the contributions and other financial arrangements necessary to cover the initial expenses of the pool and estimates, supported by statistical information, of the amounts of those contributions or other financial arrangements;

(3) underwriting standards and procedures for evaluating risks;

(4) a requirement that each participant in the pool receive continuing training in the methods of controlling liability losses;

(5) procedures for purchasing reinsurance;

(6) procedures and guidelines for:

(A) establishing premium rates for and maximum limits of excess liability coverage available from the pool;

(B) negotiating and paying settlements, defending claims, and paying judgments; and

(C) managing and investing the fund;

(7) procedures for:

(A) processing and paying claims; and

(B) defraying losses or expenses of the pool;

(8) guidelines for nonrenewal of coverage;

(9) the minimum capital and surplus to be maintained by the pool; and

(10) the minimum standards for reserve requirements for the pool.

(b) The plan of operation may include any matter relating to the organization and operation of the pool or to the pool's finances.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 2, eff. April 1, 2007.

Sec. 2205.103. APPROVAL OF PLAN OF OPERATION. (a) On completion of the plan of operation, the temporary board shall submit the plan to the department for examination, suggested changes, and final approval.

(b) The department shall approve the plan of operation on the determination that the pool is able and will continue to be able to pay valid claims made against the pool.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 2, eff. April 1, 2007.

SUBCHAPTER D. BOARD OF TRUSTEES

Sec. 2205.151. GOVERNANCE OF POOL. (a) The pool is governed by a board of trustees composed of nine members selected as provided by the plan of operation.

(b) Not later than the 15th day after the date the department approves the plan of operation, the initial regular board must be selected as provided by the plan of operation. The members of the initial regular board shall take office not later than the 30th day after the date the plan of operation is adopted.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 2, eff. April 1, 2007.

Sec. 2205.152. TERMS; VACANCY. (a) Board members serve two-year terms. The terms expire as provided by the plan of operation.

(b) A vacancy on the board shall be filled as provided by the plan of operation.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 2, eff. April 1, 2007.

Sec. 2205.153. PERFORMANCE BOND REQUIRED. (a) Each board member shall execute a bond in the amount required by the plan of operation. The bond must be payable to the pool and conditioned on the faithful performance of the member's duties.

(b) The pool shall pay the cost of the bond executed under this section.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 2, eff. April 1, 2007.

Sec. 2205.154. COMPENSATION. A board member is not entitled to compensation for the member's service on the board.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 2, eff. April 1, 2007.

Sec. 2205.155. OFFICERS; MEETINGS. (a) The board shall elect from the board's membership a presiding officer and other officers as provided by the plan of operation.

(b) Each officer serves a one-year term that expires as provided by the plan of operation.

(c) The board shall meet at the call of the presiding officer and at times established by the board's rules.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 2, eff. April 1, 2007.

Sec. 2205.156. GENERAL POWERS AND DUTIES OF BOARD. (a) The board shall:

(1) approve contracts, other than liability insurance contracts issued by the pool to child-care facilities; and

(2) adopt premium rate schedules and policy forms for the pool.

(b) The board may:

(1) adopt rules as necessary for the operation of the

pool;

(2) delegate specific responsibilities to the pool manager; and

(3) with the department's approval, amend the plan of operation as necessary to ensure the orderly management and operation of the pool.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 2, eff. April 1, 2007.

Sec. 2205.157. IMMUNITY OF BOARD MEMBERS FROM CERTAIN LIABILITIES. A board member is not liable:

(1) with respect to a claim or judgment for which coverage is provided by the pool; or

(2) for a claim or judgment against a child-care facility covered by the pool.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 2, eff. April 1, 2007.

SUBCHAPTER E. OPERATION OF POOL

Sec. 2205.201. GENERAL POWERS AND DUTIES OF POOL. (a) The pool shall:

(1) issue primary and excess liability coverage to each child-care facility entitled to coverage under this chapter;

(2) collect premiums for coverage issued or renewed by the pool;

(3) process and pay valid claims;

(4) maintain detailed information regarding the pool; and

(5) establish a plan to conduct loss control training or contract with an outside entity to establish continuing training and inspections programs designed to reduce the potential liability losses of pool participants.

(b) The pool may:

(1) enter into contracts;

(2) purchase reinsurance;

(3) cancel or refuse to renew coverage; and

(4) perform any other act necessary to implement this chapter, the plan of operation, or a rule adopted by the board.
Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 2, eff. April 1, 2007.

Sec. 2205.202. POOL MANAGER; PERFORMANCE BOND REQUIRED.

(a) The board shall appoint a pool manager who serves at the pleasure of the board, and the board shall supervise the pool manager's activities.

(b) The pool manager shall execute a bond in the amount determined by the board. The bond must be payable to the pool and conditioned on the faithful performance of the pool manager's duties.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 2, eff. April 1, 2007.

Sec. 2205.203. GENERAL POWERS AND DUTIES OF POOL MANAGER.

(a) The pool manager shall direct the general operation of the pool and perform other duties as directed by the board.

(b) The pool manager shall:

(1) receive and approve applications for liability coverage from the pool;

(2) negotiate contracts for the pool; and

(3) prepare proposed policy forms for board approval.

(c) The pool manager may refuse to renew the coverage of a child-care facility insured by the pool that fails to meet the guidelines included in the plan of operation.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 2, eff. April 1, 2007.

Sec. 2205.204. PERSONNEL. (a) The pool manager may employ or contract with persons as necessary to assist the board and the pool manager in implementing the powers and duties of the pool.

(b) The board must approve:

(1) the compensation paid to a pool employee; and

(2) a contract made with a person under this section.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 2, eff.

April 1, 2007.

Sec. 2205.205. PERFORMANCE BOND AUTHORIZED. The board may require an employee or a person with whom the pool manager contracts under Section 2205.204 to execute a bond in an amount determined by the board. The bond must be payable to the board and conditioned on the faithful performance of the employee's or other person's duties to the pool.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 2, eff. April 1, 2007.

Sec. 2205.206. IMMUNITY OF EMPLOYEES AND CONTRACTORS FROM CERTAIN LIABILITIES. An employee or a person with whom the pool manager contracts under Section 2205.204 is not liable with respect to a claim or judgment against a child-care facility covered by the pool.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 2, eff. April 1, 2007.

Sec. 2205.207. OFFICE; RECORDS. (a) The pool shall maintain the pool's principal office in Austin, Texas.

(b) Records and other information relating to the operation of the pool must be maintained in the pool's principal office.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 2, eff. April 1, 2007.

Sec. 2205.208. ANNUAL AUDIT. The board shall require an annual audit of the pool's capital, surplus, and reserves. The audit must be conducted by an actuary who is a member of the American Academy of Actuaries or a similar national organization of actuaries recognized by the board.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 2, eff. April 1, 2007.

SUBCHAPTER F. TEXAS CHILD-CARE FACILITY LIABILITY FUND

Sec. 2205.251. FUND CREATION; MANAGEMENT. (a) The Texas

child-care facility liability fund is established on the creation of the pool.

(b) The fund is composed of:

(1) premiums paid by child-care facilities for coverage provided by the pool;

(2) contributions and other money received by the pool to cover the initial expenses of the fund;

(3) investments of the fund and money earned from those investments; and

(4) any other money received by the pool.

(c) The pool manager, under the general supervision of the board, shall manage and invest the money in the fund in the manner provided by the plan of operation.

(d) Money earned by the investment of money in the fund must be deposited in the fund or reinvested for the fund.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 2, eff. April 1, 2007.

Sec. 2205.252. CONTRIBUTIONS. The board shall determine the amount of contributions necessary to meet the initial expenses of the pool. The board shall make this determination based on the information provided by the plan of operation.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 2, eff. April 1, 2007.

Sec. 2205.253. USES OF FUND. (a) Administrative expenses of the pool may be paid from the fund. Payments for administrative expenses during a fiscal year may not exceed 10 percent of the total amount of the money in the fund during that fiscal year.

(b) Money in the fund may not be used to pay:

(1) punitive damages; or

(2) a fine or penalty imposed for a violation of:

(A) a statute;

(B) a rule of a state agency; or

(C) an ordinance or order of a local government.

(c) A claim or judgment may be paid from the fund under excess liability insurance coverage only if all benefits payable

under any other underlying liability insurance policy covering that claim or judgment are exhausted.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 2, eff. April 1, 2007.

Sec. 2205.254. DEPOSITORY BANK. (a) The board may select one or more banks to serve as a depository for the fund.

(b) A depository bank must provide security before money in the fund may be deposited in the bank in an amount that exceeds the maximum amount secured by the Federal Deposit Insurance Corporation. The security must be in an amount sufficient to secure the excess amount of the deposit.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 2, eff. April 1, 2007.

SUBCHAPTER G. POOL COVERAGE

Sec. 2205.301. SCOPE OF COVERAGE. (a) The pool shall insure a child-care facility and the facility's officers and employees against liability for acts and omissions under the laws of this state by the officers and employees in their official or employment capacities.

(b) The pool shall provide to a child-care facility that qualifies under this chapter and the plan of operation:

(1) primary liability insurance coverage in an amount not to exceed \$300,000; and

(2) excess liability insurance coverage in an amount that the board determines is actuarially sound.

(c) The pool may participate in evaluating, settling, and defending a claim against a child-care facility insured by the pool.

(d) The pool is liable in an amount not to exceed the limit of coverage provided to a child-care facility on a claim made against the facility.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 2, eff. April 1, 2007.

Sec. 2205.302. BASIS OF COVERAGE. The pool may provide liability insurance coverage on a claims-made basis or an occurrence basis.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 2, eff. April 1, 2007.

Sec. 2205.303. RATES AND LIMITS OF COVERAGE. (a) To ensure that the pool is actuarially sound, the board shall:

(1) set the premium rates charged; and

(2) determine the maximum limits of coverage provided.

(b) The pool manager, for the board's consideration, shall:

(1) collect and compile statistical information relating to the liability coverage provided by the pool, including relevant loss, expense, and premium information, and other necessary information;

(2) prepare the proposed premium rate schedules for the approval of the board; and

(3) prepare the maximum limits of coverage.

(c) The board shall periodically reexamine the rate schedules and the maximum limits of coverage.

(d) The pool manager shall make available to the public the information described by Subsection (b)(1).

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 2, eff. April 1, 2007.

Sec. 2205.304. COVERAGE PERIOD. A child-care facility that accepts coverage provided by the pool shall maintain that coverage for at least 24 consecutive months following the date the pool issued the coverage.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 2, eff. April 1, 2007.

Sec. 2205.305. NONRENEWAL OF COVERAGE. (a) Except as provided by Subsection (b), the pool may refuse to renew the coverage of a child-care facility that fails to comply with the pool's underwriting standards.

(b) The pool may not refuse to renew the coverage of a

child-care facility during the first 24 months following the date the facility is first provided coverage by the pool if the facility maintains the underwriting standards established by the plan of operation.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 2, eff. April 1, 2007.

Sec. 2205.306. SUBSEQUENT COVERAGE. A child-care facility that voluntarily discontinues coverage provided by the pool is not eligible to subsequently obtain coverage from the pool for at least 12 months following the date the coverage is discontinued.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 2, eff. April 1, 2007.

Sec. 2205.307. PAYMENT OF CLAIMS AND JUDGMENTS. (a) If money in the fund would be exhausted by the payment of all final and settled claims and final judgments during a fiscal year, the pool shall prorate the amount paid to each person having the claim or judgment.

(b) If the amount paid by the pool is prorated under this section, each person described by Subsection (a) shall receive an amount equal to the percentage that the amount owed to that person by the pool bears to the total amount owed, outstanding, and payable by the pool.

(c) The pool shall pay in the next fiscal year the remaining amount that is due and unpaid to a person who receives a prorated payment under this section.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 2, eff. April 1, 2007.

APPENDIX 7

HOUSE BILL 456

D3

5lr0702

By: **Delegates Spiegel, Allen, Amprey, Boaf, Crutchfield, Fair, Foley, D. Jones, Kaufman, Lehman, Martinez, Mireku–North, Palakovich Carr, Pena–Melnyk, Ruff, Schindler, Shetty, Simpson, Stein, Taveras, Tomlinson, Valderrama, Vogel, Wolek, Woods, Woorman, and Wu**

Introduced and read first time: January 20, 2025

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Civil Actions – Child Nonsexual Abuse and Neglect – Damages and Statute of**
3 **Limitations**

4 FOR the purpose of establishing a certain statute of limitations in certain civil actions
5 relating to child nonsexual abuse and neglect; establishing certain limitations on
6 damages that may be awarded under this Act; providing that a certain party may
7 appeal an interlocutory order under certain circumstances; applying this Act
8 prospectively and retroactively to certain actions barred by a certain statute of
9 limitations; and generally relating to child nonsexual abuse and neglect.

10 BY adding to

11 Article – Courts and Judicial Proceedings
12 Section 5–117.1
13 Annotated Code of Maryland
14 (2020 Replacement Volume and 2024 Supplement)

15 BY repealing and reenacting, with amendments,

16 Article – Courts and Judicial Proceedings
17 Section 5–303(a), 5–518(b) and (c), and 12–303
18 Annotated Code of Maryland
19 (2020 Replacement Volume and 2024 Supplement)

20 BY repealing and reenacting, without amendments,

21 Article – Courts and Judicial Proceedings
22 Section 5–518(a)
23 Annotated Code of Maryland
24 (2020 Replacement Volume and 2024 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



BY repealing and reenacting, with amendments,
Article – Education
Section 4–105
Annotated Code of Maryland
(2022 Replacement Volume and 2024 Supplement)

BY repealing and reenacting, with amendments,
Article – State Government
Section 12–104(a)
Annotated Code of Maryland
(2021 Replacement Volume and 2024 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
That the Laws of Maryland read as follows:

Article – Courts and Judicial Proceedings

5–117.1.

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
INDICATED.

(2) “CHILD” MEANS AN INDIVIDUAL UNDER THE AGE OF 18 YEARS.

(3) (I) “NEGLECT” MEANS THE LEAVING OF A CHILD UNATTENDED
OR OTHER FAILURE TO GIVE PROPER CARE AND ATTENTION TO A CHILD BY ANY
PARENT OR OTHER PERSON WHO HAS PERMANENT OR TEMPORARY CARE OR
CUSTODY OR RESPONSIBILITY FOR SUPERVISION OF THE CHILD UNDER
CIRCUMSTANCES THAT INDICATE:

1. THAT THE CHILD’S HEALTH OR WELFARE IS HARMED
OR PLACED AT SUBSTANTIAL RISK OF HARM; OR

2. MENTAL INJURY TO THE CHILD OR A SUBSTANTIAL
RISK OF MENTAL INJURY.

(II) “NEGLECT” DOES NOT INCLUDE:

1. THE SEXUAL ABUSE OF A CHILD, AS DEFINED IN §
5–117 OF THIS SUBTITLE, OR THE PHYSICAL INJURY OF A CHILD BY ACCIDENTAL
MEANS; OR

2. THE FAILURE TO PROVIDE NECESSARY ASSISTANCE
AND RESOURCES FOR THE PHYSICAL NEEDS OR MENTAL HEALTH OF A CHILD WHEN

1 THE FAILURE IS DUE SOLELY TO A LACK OF FINANCIAL RESOURCES OR
2 HOMELESSNESS.

3 (4) (I) "NONSEXUAL ABUSE" MEANS THE PHYSICAL OR MENTAL
4 INJURY OF A CHILD UNDER CIRCUMSTANCES THAT INDICATE THAT THE CHILD'S
5 HEALTH OR WELFARE IS HARMED OR AT SUBSTANTIAL RISK OF BEING HARMED BY:

6 1. A PARENT;

7 2. A HOUSEHOLD MEMBER OR FAMILY MEMBER;

8 3. A PERSON WHO HAS PERMANENT OR TEMPORARY
9 CARE OR CUSTODY OF THE CHILD;

10 4. A PERSON WHO HAS RESPONSIBILITY FOR
11 SUPERVISION OF THE CHILD; OR

12 5. A PERSON WHO, BECAUSE OF THE PERSON'S
13 POSITION OR OCCUPATION, EXERCISES AUTHORITY OVER THE CHILD.

14 (II) "NONSEXUAL ABUSE" DOES NOT INCLUDE THE SEXUAL
15 ABUSE OF A CHILD, AS DEFINED IN § 5-117 OF THIS SUBTITLE, OR THE PHYSICAL
16 INJURY OF A CHILD BY ACCIDENTAL MEANS.

17 (B) THIS SECTION DOES NOT APPLY IF THE ALLEGED VICTIM OF
18 NONSEXUAL ABUSE OR NEGLECT IS DECEASED AT THE COMMENCEMENT OF AN
19 ACTION FOR DAMAGES BROUGHT UNDER THIS SECTION.

20 (C) NOTWITHSTANDING ANY TIME LIMITATION UNDER A STATUTE OF
21 LIMITATIONS, A STATUTE OF REPOSE, THE MARYLAND TORT CLAIMS ACT, THE
22 LOCAL GOVERNMENT TORT CLAIMS ACT, OR ANY OTHER LAW, AN ACTION FOR
23 DAMAGES ARISING OUT OF AN ALLEGED INCIDENT OR INCIDENTS OF NONSEXUAL
24 ABUSE OR NEGLECT THAT OCCURRED WHILE THE VICTIM WAS A CHILD SHALL BE
25 FILED WITHIN THE LATER OF:

26 (1) 20 YEARS AFTER THE DATE THAT THE VICTIM REACHED THE AGE
27 OF 18 YEARS; OR

28 (2) 3 YEARS AFTER THE DATE THAT THE DEFENDANT IS CONVICTED
29 OF A CRIME RELATING TO THE ALLEGED INCIDENT OR INCIDENTS UNDER:

30 (I) § 3-601 OR § 6-602.1 OF THE CRIMINAL LAW ARTICLE; OR

(II) THE LAWS OF ANOTHER STATE OR THE UNITED STATES THAT WOULD BE A CRIME UNDER § 3-601 OR § 6-602.1 OF THE CRIMINAL LAW ARTICLE.

(D) EXCEPT AS PROVIDED IN §§ 5-303 AND 5-518 OF THIS TITLE AND § 12-104 OF THE STATE GOVERNMENT ARTICLE, THE TOTAL AMOUNT OF NONECONOMIC DAMAGES THAT MAY BE AWARDED UNDER THIS SECTION TO A SINGLE CLAIMANT IN AN ACTION AGAINST A SINGLE DEFENDANT FOR INJURIES ARISING FROM AN INCIDENT OR OCCURRENCE THAT WOULD HAVE BEEN BARRED BY A TIME LIMITATION BEFORE OCTOBER 1, 2025, MAY NOT EXCEED \$1,500,000.

5-303.

(a) (1) Except as provided in paragraphs (2), (3), and (4) of this subsection, the liability of a local government may not exceed \$400,000 per an individual claim, and \$800,000 per total claims that arise from the same occurrence for damages resulting from tortious acts or omissions, or liability arising under subsection (b) of this section and indemnification under subsection (c) of this section.

(2) The limits on liability provided under paragraph (1) of this subsection do not include interest accrued on a judgment.

(3) If the liability of a local government arises from intentional tortious acts or omissions or a violation of a constitutional right committed by a law enforcement officer, the following limits on liability apply:

(i) Subject to item (ii) of this paragraph, the combined award for both economic and noneconomic damages may not exceed a total of \$890,000 for all claims arising out of the same incident or occurrence, regardless of the number of claimants or beneficiaries who share in the award; and

(ii) In a wrongful death action in which there are two or more claimants or beneficiaries, an award for noneconomic damages may not exceed 150% of the limitation established under item (i) of this paragraph, regardless of the number of claimants or beneficiaries who share in the award.

(4) If the liability of a local government arises from a claim of sexual abuse, as defined in § 5-117 of this title, **OR NONSEXUAL ABUSE OR NEGLECT, AS DEFINED IN § 5-117.1 OF THIS TITLE**, the liability may not exceed \$890,000 to a single claimant for injuries arising from an incident or occurrence.

5-518.

(a) (1) In this section the following words have the meanings indicated.

(2) “Compensation” does not include actual and necessary expenses that are incurred by a volunteer in connection with the services provided or duties performed by the volunteer for a county board of education, and that are reimbursed to the volunteer or otherwise paid.

(3) “County board employee” means:

(i) Any employee whose compensation is paid in whole or in part by a county board of education; or

(ii) A student teacher.

(4) “County board member” means a duly elected or appointed member of a county board of education.

(5) “Volunteer” means an individual who, at the request of the county board and under its control and direction, provides services or performs duties for the county board without compensation.

(b) A county board of education, described under Title 4, Subtitle 1 of the Education Article, may raise the defense of sovereign immunity to:

(1) Any amount claimed above the limit of its insurance policy; or

(2) If self-insured or a member of a pool described under § 4–105(c)(1)(ii) of the Education Article:

(i) Except as provided in item (ii) of this item, any amount above \$400,000; or

(ii) If the liability of the county board of education arises from a claim of sexual abuse, as defined in § 5–117 of this title, **OR NONSEXUAL ABUSE OR NEGLECT, AS DEFINED IN § 5–117.1 OF THIS TITLE**, any amount above \$890,000 to a single claimant for claims arising from an incident or occurrence.

(c) (1) Except as provided in paragraph (2) of this subsection, a county board of education may not raise the defense of sovereign immunity to any claim of \$400,000 or less.

(2) If liability of a county board of education arises under a claim of sexual abuse, as defined in § 5–117 of this title, **OR NONSEXUAL ABUSE OR NEGLECT, AS DEFINED IN § 5–117.1 OF THIS TITLE**, the liability may not exceed \$890,000 to a single claimant for injuries arising from an incident or occurrence.

12–303.

1 A party may appeal from any of the following interlocutory orders entered by a circuit
2 court in a civil case:

3 (1) An order entered with regard to the possession of property with which
4 the action is concerned or with reference to the receipt or charging of the income, interest,
5 or dividends therefrom, or the refusal to modify, dissolve, or discharge such an order;

6 (2) An order granting or denying a motion to quash a writ of attachment;
7 and

8 (3) An order:

9 (i) Granting or dissolving an injunction, but if the appeal is from an
10 order granting an injunction, only if the appellant has first filed his answer in the cause;

11 (ii) Refusing to dissolve an injunction, but only if the appellant has
12 first filed his answer in the cause;

13 (iii) Refusing to grant an injunction; and the right of appeal is not
14 prejudiced by the filing of an answer to the bill of complaint or petition for an injunction on
15 behalf of any opposing party, nor by the taking of depositions in reference to the allegations
16 of the bill of complaint to be read on the hearing of the application for an injunction;

17 (iv) Appointing a receiver but only if the appellant has first filed his
18 answer in the cause;

19 (v) For the sale, conveyance, or delivery of real or personal property
20 or the payment of money, or the refusal to rescind or discharge such an order, unless the
21 delivery or payment is directed to be made to a receiver appointed by the court;

22 (vi) Determining a question of right between the parties and
23 directing an account to be stated on the principle of such determination;

24 (vii) Requiring bond from a person to whom the distribution or
25 delivery of property is directed, or withholding distribution or delivery and ordering the
26 retention or accumulation of property by the fiduciary or its transfer to a trustee or receiver,
27 or deferring the passage of the court's decree in an action under Title 10, Chapter 600 of
28 the Maryland Rules;

29 (viii) Deciding any question in an insolvency proceeding brought
30 under Title 15, Subtitle 1 of the Commercial Law Article;

31 (ix) Granting a petition to stay arbitration pursuant to § 3–208 of this
32 article;

33 (x) Depriving a parent, grandparent, or natural guardian of the care
34 and custody of his child, or changing the terms of such an order;

(xi) Denying immunity asserted under § 5–525 or § 5–526 of this article; and

(xii) Denying a motion to dismiss a claim filed under § 5–117 **OR § 5–117.1** of this article if the motion is based on a defense that the applicable statute of limitations or statute of repose bars the claim and any legislative action reviving the claim is unconstitutional.

Article – Education

4–105.

(a) (1) Each county board shall carry comprehensive liability insurance to protect the board and its agents and employees.

(2) The purchase of insurance in accordance with paragraph (1) of this subsection is a valid educational expense.

(b) (1) The State Board shall establish standards for these insurance policies, including a minimum liability coverage of not less than:

(i) \$890,000 for each occurrence for claims of sexual abuse made under § 5–117 of the Courts Article **OR CLAIMS OF NONSEXUAL ABUSE OR NEGLECT MADE UNDER § 5–117.1 OF THE COURTS ARTICLE**; and

(ii) \$400,000 for each occurrence for all other claims.

(2) The policies purchased under this section shall meet these standards.

(c) (1) A county board complies with this section if it:

(i) Is individually self-insured for at least \$890,000 for each occurrence under the rules and regulations adopted by the State Insurance Commissioner; or

(ii) Pools with other public entities for the purpose of self-insuring property or casualty risks under Title 19, Subtitle 6 of the Insurance Article.

(2) A county board that elects to self-insure individually under this subsection periodically shall file with the State Insurance Commissioner, in writing, the terms and conditions of the self-insurance.

(3) The terms and conditions of this individual self-insurance:

(i) Are subject to the approval of the State Insurance Commissioner; and

(ii) Shall conform with the terms and conditions of comprehensive liability insurance policies available in the private market.

(d) A county board shall have the immunity from liability described under § 5–518 of the Courts and Judicial Proceedings Article.

Article – State Government

12–104.

(a) (1) Subject to the exclusions and limitations in this subtitle and notwithstanding any other provision of law, the immunity of the State and of its units is waived as to a tort action, in a court of the State, to the extent provided under paragraph (2) of this subsection.

(2) (i) Except as provided in subparagraphs (ii) and (iii) of this paragraph, the liability of the State and its units may not exceed \$400,000 to a single claimant for injuries arising from a single incident or occurrence.

(ii) If liability of the State or its units arises from intentional tortious acts or omissions or a violation of a constitutional right committed by a law enforcement officer, the following limits on liability shall apply:

1. subject to item 2 of this subparagraph, the combined award for both economic and noneconomic damages may not exceed a total of \$890,000 for all claims arising out of the same incident or occurrence, regardless of the number of claimants or beneficiaries who share in the award; and

2. in a wrongful death action in which there are two or more claimants or beneficiaries, an award for noneconomic damages may not exceed 150% of the limitation established under item 1 of this item, regardless of the number of claimants or beneficiaries who share in the award.

(iii) If liability of the State or its units arises under a claim of sexual abuse, as defined in § 5–117 of the Courts Article, **OR NONSEXUAL ABUSE OR NEGLECT, AS DEFINED IN § 5–117.1 OF THE COURTS ARTICLE**, the liability may not exceed \$890,000 to a single claimant for injuries arising from an incident or occurrence.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to apply both prospectively and retroactively and shall be applied to and interpreted to affect any action that was barred by the application of the period of limitations applicable before October 1, 2025.

SECTION 3. AND BE IT FURTHER ENACTED, That, if any provision of this Act or the application thereof to any person or circumstance is held invalid for any reason in a court of competent jurisdiction, the invalidity does not affect other provisions or any other

1 application of this Act that can be given effect without the invalid provision or application,
2 and for this purpose the provisions of this Act are declared severable.

3 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect
4 October 1, 2025.