

Testimony of Vermont School Boards Insurance Trust (VSBIT)
from Ken Canning, Director, Multi-Line Program
House Judiciary Committee – March 21, 2024

S.278

VSBIT is a non-profit intermunicipal insurance association owned and governed by its constituent member school districts. Over 90% of Vermont pre-K-12 public schools are members of the VSBIT Multi-Line Program. VSBIT supports school districts by providing comprehensive coverage, effective claims management, and proactive risk management solutions to foster safe school environments for students, staff and community members.

We are concerned that the passage of S.278 will result in higher costs reduced availability of sexual abuse and molestation (SAM) liability coverage to Vermont public schools.

There is precedence for this that dates back to the insurance crisis of the 1980's, when commercial insurers pulled out of the market because they believed the risk outweighed the premium and would thereby be unprofitable. Liability coverage immediately became either unavailable or unaffordable. This is why risk pools like VSBIT were formed. But we still rely on the commercial market for reinsurance for the program.

VSBIT purchases excess liability coverage from the open market and relies heavily on reinsurance to provide adequate limits of coverage to our members. Statutorily prohibiting a long-standing tenet of civil liability lawsuits could have a chilling effect on (re)insurers' appetite to offer SAM coverage in Vermont. Already, our reinsurer has imposed a higher self-insured retention for SAM claims than on all other general liability claims. We are concerned that this bill, if enacted, would result in reinsurers further distancing themselves from the exposure or deciding not to offer coverage at all. This would result in higher costs for Vermont public schools, and/or less to no coverage for SAM claims.

We request that the Committee vote to leave the decision of comparative negligence in civil lawsuits to juries where it rightfully belongs and not preemptively prohibit it from being raised as a matter of law before the facts of a case are even heard.