

WEST VIRGINIA LEGISLATURE

2026 REGULAR SESSION

Introduced

House Bill Number

BY ENTER SPONSORS HERE

[Introduced ; referred
to the Committee on the]

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1 A BILL to amend and reenact §49-2-121 of the Code of West Virginia, 1931, as amended, relating
2 to requiring the Bureau of Social Service to file a legislative rule.

Be it enacted by the Legislature of West Virginia:

ARTICLE 2. STATE RESPONSIBILITIES FOR CHILDREN.

§49-2-121. Rule-making.

1 (a) The secretary shall promulgate legislative rules in accordance with §29A-3-1 et seq.
2 of this code regarding the licensure, approval, certification, and registration of child care facilities
3 and the implementation of this article.

4 (b) The secretary shall review the rules promulgated pursuant to this article at least once
5 every five years, making revisions when necessary or convenient.

6 (c) The rules shall incorporate, by reference, the requirements of the Integrated Pest
7 Management Program established by legislative rule by the Department of Agriculture under §19-
8 16A-4 of this code.

9 (d) (1) The Bureau of Social Services shall prepare, compile, and file its complete policy
10 manual, including all policies governing child protective services, foster care, youth services,
11 licensing, casework standards, and any other operational or programmatic guidance used by the
12 bureau, as a legislative rule in accordance with the provisions of §29A-3-1 et seq. of this code.

13 (2) The bureau shall file the legislative rule required under subsection (d) with the
14 Secretary of States' Office on or before July 1, 2026.

15 (3) Following the initial filing required, the bureau shall file all subsequent amendments,
16 supplements, and revisions to its policy manual as legislative rules in accordance with article
17 three, chapter twenty-nine-a of this code.

18 (4) Nothing in this subsection prohibits the bureau from issuing internal guidance or
19 emergency procedures as necessary to protect child safety; however, any such guidance that
20 remains in effect for more than 180 days shall be incorporated into the legislative rule process.

NOTE: The purpose of this bill is to require the Bureau of Social Service to file its policy manual as a legislative rule.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.

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[Introduced ; referred

to the Committee on]

1 A BILL

Be it enacted by the Legislature of West Virginia:

ARTICLE 21. PUBLIC DEFENDER SERVICES.**§29-21-13a. Compensation and expenses for panel attorneys.**

1 (a) All panel attorneys shall maintain detailed and accurate records of the time expended
2 and expenses incurred on behalf of eligible clients, and which records are to be maintained in a
3 form that will enable the attorney to determine for any day the periods of time expended in tenths
4 of an hour on behalf of any eligible client and the total time expended in tenths of an hour on that
5 day on behalf of all eligible clients: *Provided*, That in no event may panel attorneys be required to
6 maintain or submit the actual start and finish times of work performed.

7 (b) Upon completion of each case, exclusive of appeal, panel attorneys shall submit to
8 Public Defender Services a voucher for services. Public Defender Services shall electronically
9 acknowledge the submission of a voucher. Claims for fees and expense reimbursements shall be
10 submitted to Public Defender Services on forms approved by the executive director. The
11 executive director shall establish guidelines for the submission of vouchers and claims for fees
12 and expense reimbursements under this section. Claims submitted more than 90 business days
13 after the last date of service shall be rejected unless, for good cause, the appointing court
14 authorizes in writing an extension.

15 (c) Public Defender Services shall review the voucher to determine if the time and expense
16 claims are reasonable, necessary, and valid. A voucher found to be correct shall be processed
17 and payment promptly directed within 45 business days of submission of the voucher.

18 (d)(1) If Public Defender Services rejects a voucher, the attorney submitting the voucher
19 shall be notified electronically of the rejection and provided detailed reasons for the rejection
20 within 30 business days of submission of the voucher. The attorney may resubmit the voucher
21 accompanied by copies of his or her records supporting the voucher and certification from the

22 appointing court that the services or expenses were performed or incurred, and were reasonable
23 and necessary, within 15 business days of receipt of notification. The executive director shall
24 make a final agency decision regarding the rejection of the voucher within 15 business days of
25 receipt of the submitted records and certification. Under no circumstances may the executive
26 director have the authority or require any panel attorney to submit privileged client information.

27 (2) If the final agency decision is to reject the voucher, Public Defender Services shall
28 request review of the final agency decision by motion to the appointing court filed within 15
29 business days of notice of the final agency decision. After a hearing providing the attorney and
30 Public Defender Services an opportunity to be heard, the appointing court shall have final
31 authority to resolve the issue of payment and to order all remedies available under the West
32 Virginia Rules of Civil Procedure.

33 (e) If Public Defender Services reduces the amount of compensation claimed or
34 reimbursement requested, the attorney submitting the voucher shall be notified electronically of
35 the reduction and detailed reasons for the reduction within 30 business days of the submission of
36 the voucher. The attorney may:

37 (1) Agree with the reduction and certify his or her agreement electronically to Public
38 Defender Services which shall then proceed to process payment; or

39 (2) Disagree with the reduction and request payment of the reduced amount while
40 preserving the ability to contest the reduction;

41 (3) An attorney proceeding pursuant to this subsection shall inform Public Defender
42 Services of his or her decision by electronic means within 15 business days of receipt of the notice
43 of reduction. If there is no communication from the attorney within 15 business days of receipt of
44 the notice of reduction, then the reduction is deemed to be accepted by the attorney;

45 (4) The attorney may submit records and certification from the appointing court that the
46 services or expenses reflected in the amount reduced were performed or incurred and were
47 reasonable and necessary. The executive director shall then make a final agency decision

regarding the reduction within 15 business days of receipt of the submitted records and certification. Under no circumstances may the executive director have the authority to require any panel attorney to submit privileged client information;

(5) If the attorney disagrees with the final agency decision, and the attorney and the executive director cannot reach an agreement regarding the reduction within 15 business days of the receipt of the notice of the final agency decision, Public Defender Services shall request review of the final agency decision by motion to the appointing court filed within 15 business days of notice of the final agency decision. After a hearing providing the attorney and Public Defender Services an opportunity to be heard, the appointing court shall have final authority to resolve the issue of payment, and to order all remedies available under the West Virginia Rules of Civil Procedure;

(6) If there is no communication from Public Defender Services within 30 business days of the submission of the voucher, the voucher is deemed to have been approved for payment without reduction.

(f) Notwithstanding any provisions of this code to the contrary, the executive director may employ in-house counsel to represent Public Defender Services in hearings held pursuant to this article.

(g) Except for the emergency rule-making provision set forth in §29-21-6(h) of this code, the provisions of the amendments to this article enacted during the 2019 regular session of the Legislature shall be effective July 1, 2019.

(h) Notwithstanding any other provision of this section to the contrary, Public Defender Services may pay by direct bill, prior to the completion of the case, litigation expenses incurred by attorneys appointed under this article.

(i) Notwithstanding any other provision of this section to the contrary, a panel attorney may be compensated for services rendered and reimbursed for expenses incurred prior to the completion of the case where: (1) More than six months have expired since the commencement

of the panel attorney's representation in the case; and (2) no prior payment of attorney fees has been made to the panel attorney by Public Defender Services during the case. The executive director, in his or her discretion, may authorize periodic payments where ongoing representation extends beyond six months in duration. The amounts of any fees or expenses paid to the panel attorney on an interim basis, when combined with any amounts paid to the panel attorney at the conclusion of the case, shall not exceed the limitations on fees and expenses imposed by this section.

(j) In each case in which a panel attorney provides legal representation under this article, and in each appeal after conviction in circuit court, the panel attorney shall be compensated at the following rates for actual and necessary time expended for services performed and expenses incurred subsequent to the effective date of this article.

~~(1) For attorney's work performed out of court, compensation shall be at the rate of \$60~~
~~\$70 per hour.~~

~~Out of court work includes, but is not limited to, travel, interviews of clients or witnesses, preparation of pleadings, and prehearing or pretrial research;~~

~~(2) For attorney's work performed in court, compensation shall be at the rate of \$80~~
~~\$90 per hour.~~

~~In court work includes, but is not limited to, all time spent awaiting hearing or trial before a judge, magistrate, special master, or other judicial officer;~~

(1) All legal services performed by a panel attorney will be compensated at a rate of not less than \$100 per hour. The West Virginia Public Defender Services will annually publish on their website, no later than June 15, the rate of compensation for the next fiscal year;

~~(3)~~ (2) Compensation for legal services performed for a panel attorney by a paralegal out-of-court is to be calculated using a rate of not less than \$20 per hour and no such compensation is to be paid for in-court services performed for a panel attorney by a paralegal absent prior approval of the circuit court before whom the panel attorney is appearing and subject to maximum

reimbursement amounts set by agency rule. The West Virginia Public Defender Services will annually publish on their website, no later than June 15, the rate of compensation for the next fiscal year;

(4) (3) The maximum amount of compensation for ~~out-of-court and in-court~~ work under this subsection is as follows: For proceedings of any kind involving felonies for which a penalty of life imprisonment may be imposed, the amount as the court may approve; for all other eligible proceedings, \$4,500 unless the court, for good cause shown, approves payment of a larger sum.

(k) Actual and necessary expenses incurred in providing legal representation for proceedings of any kind involving felonies for which a penalty of life imprisonment may be imposed, including, but not limited to, expenses for travel, transcripts, salaried or contracted investigative services, and expert witnesses, shall be reimbursed in an amount as the court may approve. For all other eligible proceedings, actual and necessary expenses incurred in providing legal representation, including, but not limited to, expenses for travel, transcripts, salaried or contracted investigative services and expert witnesses, shall be reimbursed to a maximum of \$2,500 unless the court, for good cause shown, approves reimbursement of a larger sum.

(l) Expense vouchers shall specifically set forth the nature, amount, and purpose of expenses incurred and shall provide receipts, invoices, or other documentation required by the executive director and the State Auditor as follows:

(1) Reimbursement of expenses for production of transcripts of proceedings reported by a court reporter is limited to the cost per original page and per copy page as set forth in §51-7-4 of this code;

(2) There may be no reimbursement of expenses for or production of a transcript of a preliminary hearing before a magistrate or juvenile referee, or of a magistrate court trial, where the hearing or trial has also been recorded electronically in accordance with the provisions of §50-5-8 of this code or court rule;

(3) Reimbursement of the expense of an appearance fee for a court reporter who reports a proceeding other than one described in subdivision (2) of this subsection is limited to \$25. Where a transcript of a proceeding is produced, there may be no reimbursement for the expense of any appearance fee;

(4) Except for the appearance fees provided in this subsection, there may be no reimbursement for hourly court reporters' fees or fees for other time expended by the court reporter, either at the proceeding or traveling to or from the proceeding;

(5) Reimbursement of the cost of transcription of tapes electronically recorded during preliminary hearings or magistrate court trials is limited to \$1 per page;

(6) Reimbursement for any travel expense incurred in an eligible proceeding is limited to the rates for the reimbursement of travel expenses established by rules promulgated by the Governor pursuant to the provisions of §12-8-11 of this code and administered by the Secretary of the Department of Administration pursuant to the provisions of §5A-3-48 of this code;

(7) Reimbursement for investigative services is limited to a rate of not less than \$30 per hour for work performed by an investigator. The West Virginia Public Defender Services will annually publish on their website, no later than June 15, the rate of compensation for the next fiscal year.

(8) Reimbursement for the services of an assistant guardian ad litem is limited to a rate of not less than \$40 per hour for work performed by an appointed assistant guardian ad litem. The West Virginia Public Defender Services will annually publish on their website, no later than June 15, the rate of compensation for the next fiscal year;

(m) For purposes of compensation under this section, an appeal from magistrate court to circuit court, an appeal from a final order of the circuit court, or a proceeding seeking an extraordinary remedy made to the Supreme Court of Appeals shall be considered a separate case.

(n) Vouchers submitted under this section shall specifically set forth the nature of the service rendered, the stage of proceeding or type of hearing involved, the date and place the service was rendered, and the amount of time expended in each instance. All time claimed on the vouchers shall be itemized to the nearest tenth of an hour. If the charge against the eligible client for which services were rendered is one of several charges involving multiple warrants or indictments, the voucher shall indicate the fact and sufficiently identify the several charges so as to enable Public Defender Services to avoid a duplication of compensation for services rendered. The executive director shall refuse to requisition payment for any voucher which is not in conformity with the recordkeeping, compensation, or other provisions of this article or the voucher guidelines established issued pursuant to this article and in such circumstance shall return the voucher to the court or to the service provider for further review or correction.

(o) Vouchers submitted under this section shall be reimbursed within 90 days of receipt. Reimbursements after 90 days shall bear interest from the 91st day at the legal rate in effect for the calendar year in which payment is due.

(p) Vouchers submitted for fees and expenses involving child abuse and neglect cases shall be processed for payment before processing vouchers submitted for all other cases.

(q) Upon a dismissal of or a finding of not guilty concerning a criminal charge, should the charge or charges for which the indigent defendant was afforded counsel qualify for an expungement of charges under §61-11-25 of this code, the defendant shall be afforded continued representation upon the terms specified in this section. The Panel Attorney shall include the services performed by panel attorneys in regard to an expungement on the same voucher or a subsequent voucher submitted concerning the same case number as the one submitted to Public Defender Services for the underlying criminal charge or charges. The maximum amount of compensation for ~~out-of-court and in-court~~ work under this section shall be limited to \$1,000 for expungement services in addition to the limits imposed on the underlying criminal charge or charges, unless the court, for good cause shown, approves payment of a larger sum. The actual

and necessary expenses incurred in providing legal representation for expungement proceedings under this section shall be reimbursed to a maximum of \$500 unless the court, for good cause shown, approves reimbursement of a larger sum.

(r) Beginning on December 1, 2026, Public Defender Services shall annually provide to the Legislative Oversight Commission on Health and Human Resources, the Foster Care Ombudsman, and the West Virginia Supreme Court of Appeals a report summarizing legal services that are being provided by the submission of a voucher by panel attorneys serving as guardians ad litem in the courts the state. Each agency report shall contain a summary of the following legal services being provided by panel attorneys serving as guardians ad litem:

(1) The average per case number of multidisciplinary team meetings attended by appointed guardians ad litem from the initial appointment date until permanency for the child has been achieved as reflected by court order;

(2) The average amount of cases an appointed panel attorney served as a guardian ad litem;

(3) The average length of time that a child abuse or neglect proceeding lasts from the date of the initial appointment of a panel guardian ad litem until an order is entered that finds that permanency for the child has been achieved;

(4) The average number of in-person visits or conferences that appointed guardians ad litem have with their clients, or when appropriate the client's parents or caretaker, including the aggregate number of cases that appointed guardians ad litem have an in-person visit, or conference, with their client, or when appropriate a client's parents or caretaker, and the aggregate number of cases that guardians ad litem did not have an in-person visit or conference with their client, or client's parents or caretaker: *Provided*, That nothing in this subsection will require the disclosure by any guardian ad litem of any information protected by attorney client privilege.

(5) The average number of hours itemized and billed in each case by an appointed panel attorney serving as guardian ad litem from the initial appointment date until permanency for the child has been achieved as reflected by court order;

(6) The average number of hours itemized and billed in each case as travel time by an appointed panel attorney serving as guardian ad litem from the initial appointment date until permanency for the child has been achieved as reflected by court order.

CHAPTER 49. CHILD WELFARE.

ARTICLE 1. GENERAL PROVISIONS AND DEFINITIONS.

§49-1-201. Definitions related, but not limited, to child abuse and neglect.

When used in this chapter, terms defined in this section have the meanings ascribed to them that relate to, but are not limited to, child abuse and neglect, except in those instances where a different meaning is provided or the context in which the word is used clearly indicates that a different meaning is intended.

“Abandonment” means any conduct that demonstrates the settled purpose to forego the duties and parental responsibilities to the child;

“Abused child” means:

(1) A child whose health or welfare is being harmed or threatened by:

(A) A parent, guardian, or custodian who knowingly or intentionally inflicts, attempts to inflict, or knowingly allows another person to inflict, physical injury or mental or emotional injury, upon the child or another child in the home. Physical injury may include an injury to the child as a result of excessive corporal punishment;

(B) Sexual abuse or sexual exploitation;

(C) The sale or attempted sale of a child by a parent, guardian, or custodian in violation of §61-2-14h of this code;

(D) Domestic violence as defined in §48-27-202 of this code; or

(E) Human trafficking or attempted human trafficking, in violation of §61-14-2 of this code.

(2) A child conceived as a result of sexual assault, as that term is defined in this section, or as a result of the violation of a criminal law of another jurisdiction which has the same essential elements: Provided, That no victim of sexual assault may be determined to be an abusive parent, as that term is defined in this section, based upon being a victim of sexual assault.

“Abusing parent” means a parent, guardian, or other custodian, regardless of his or her age, whose conduct has been adjudicated by the court to constitute child abuse or neglect as alleged in the petition charging child abuse or neglect.

“Assistant guardian ad litem” means an individual appointed by the court in a juvenile abuse neglect proceeding who is supervised by and reports to the guardian ad litem on the protected juvenile’s current placement, situation, and living conditions: *Provided*, That the assistant guardian ad litem may not have a personal interest in the proceeding.

“Battered parent” for the purposes of §49-4-601 et seq. of this code means a respondent parent, guardian, or other custodian who has been adjudicated by the court to have not condoned the abuse or neglect and has not been able to stop the abuse or neglect of the child or children due to being the victim of domestic violence as defined by §48-27-202 of this code, which was perpetrated by the same person or persons determined to have abused or neglected the child or children.

“Child abuse and neglect” or “child abuse or neglect” means any act or omission that creates an abused child or a neglected child as those terms are defined in this section.

“Child abuse and neglect services” means social services which are directed toward:

(A) Protecting and promoting the welfare of children who are abused or neglected;

(B) Identifying, preventing, and remedying conditions which cause child abuse and neglect;

(C) Preventing the unnecessary removal of children from their families by identifying family problems and assisting families in resolving problems which could lead to a removal of children and a breakup of the family;

(D) In cases where children have been removed from their families, providing time-limited reunification services to the children and the families so as to reunify those children with their families, or some portion of the families;

(E) Placing children in suitable adoptive homes when reunifying the children with their families, or some portion of the families, is not possible or appropriate; and

(F) Assuring the adequate care of children or juveniles who have been placed in the custody of the department or third parties.

“Condition requiring emergency medical treatment” means a condition which, if left untreated for a period of a few hours, may result in permanent physical damage; that condition includes, but is not limited to, profuse or arterial bleeding, dislocation or fracture, unconsciousness, and evidence of ingestion of significant amounts of a poisonous substance.

“Guardian ad litem” means an attorney appointed by the court to represent the child or children in a juvenile abuse neglect proceeding.

“Imminent danger to the physical well-being of the child” means an emergency situation in which the welfare or the life of the child is threatened. These conditions may include an emergency situation when there is reasonable cause to believe that any child in the home is or has been sexually abused or sexually exploited, or reasonable cause to believe that the following conditions threaten the health, life, or safety of any child in the home:

(A) Nonaccidental trauma inflicted by a parent, guardian, custodian, sibling, babysitter or other caretaker;

(B) A combination of physical and other signs indicating a pattern of abuse which may be medically diagnosed as battered child syndrome;

(C) Nutritional deprivation;

(D) Abandonment by the parent, guardian, or custodian;

(E) Inadequate treatment of serious illness or disease;

(F) Substantial emotional injury inflicted by a parent, guardian, or custodian;

(G) Sale or attempted sale of the child by the parent, guardian, or custodian;

(H) The parent, guardian, or custodian's abuse of alcohol or drugs or other controlled substance as defined in §60A-1-101 of this code, has impaired his or her parenting skills to a degree as to pose an imminent risk to a child's health or safety; or

(I) Any other condition that threatens the health, life or safety of any child in the home.

"Neglected child" means a child:

(A) Whose physical or mental health is harmed or threatened by a present refusal, failure or inability of the child's parent, guardian, or custodian to supply the child with necessary food, clothing, shelter, supervision, medical care, or education, when that refusal, failure, or inability is not due primarily to a lack of financial means on the part of the parent, guardian, or custodian;

(B) Who is presently without necessary food, clothing, shelter, medical care, education, or supervision because of the disappearance or absence of the child's parent or custodian; or

(C) "Neglected child" does not mean a child whose education is conducted within the provisions of §18-8-1 et seq. of this code.

"Petitioner or copetitioner" means the department or any reputable person who files a child abuse or neglect petition pursuant to §49-4-601 et seq. of this code.

"Permanency plan" means the part of the case plan which is designed to achieve a permanent home for the child in the least restrictive setting available.

"Respondent" means all parents, guardians, and custodians identified in the child abuse and neglect petition who are not petitioners or copetitioners.

“Sexual abuse” means:

(A) Sexual intercourse, sexual intrusion, sexual contact, or conduct proscribed by §61-8c-3 of this code, which a parent, guardian, or custodian engages in, attempts to engage in, or knowingly procures another person to engage in, with a child notwithstanding the fact that for a child who is less than 16 years of age, the child may have willingly participated in that conduct or the child may have suffered no apparent physical, mental or emotional injury as a result of that conduct or, for a child 16 years of age or older, the child may have consented to that conduct or the child may have suffered no apparent physical injury or mental or emotional injury as a result of that conduct;

(B) Any conduct where a parent, guardian, or custodian displays his or her sex organs to a child, or procures another person to display his or her sex organs to a child, for the purpose of gratifying the sexual desire of the parent, guardian, or custodian, of the person making that display, or of the child, or for the purpose of affronting or alarming the child; or

(C) Any of the offenses proscribed in §61-8b-7, §61-8b-8, or §61-8b-9 of this code.

“Sexual assault” means any of the offenses proscribed in §61-8b-3, §61-8b-4, or §61-8b-5 of this code.

“Sexual contact” means sexual contact as that term is defined in §61-8b-1 of this code.

“Sexual exploitation” means an act where:

(A) A parent, custodian, or guardian, whether for financial gain or not, persuades, induces, entices or coerces a child to engage in sexually explicit conduct as that term is defined in §61-8c-1 of this code;

(B) A parent, guardian, or custodian persuades, induces, entices or coerces a child to display his or her sex organs for the sexual gratification of the parent, guardian, custodian or a third person, or to display his or her sex organs under circumstances in which the parent, guardian, or custodian knows that the display is likely to be observed by others who would be affronted or alarmed; or

(C) A parent, guardian, or custodian knowingly maintains or makes available a child for the purpose of engaging the child in commercial sexual activity in violation of §61-14-5 of this code.

“Sexual intercourse” means sexual intercourse as that term is defined in §61-8b-1 of this code.

“Sexual intrusion” means sexual intrusion as that term is defined in §61-8b-1 of this code.

“Serious physical abuse” means bodily injury which creates a substantial risk of death, causes serious or prolonged disfigurement, prolonged impairment of health, or prolonged loss or impairment of the function of any bodily organ.

ARTICLE 4. COURT ACTIONS.

§49-4-405. Multidisciplinary treatment planning process involving child abuse and neglect; team membership; duties; reports; admissions.

(a) Within 30 days of the initiation of a judicial proceeding pursuant to part six of this article, the department shall convene a multidisciplinary treatment team to assess, plan, and implement a comprehensive, individualized service plan for children who are victims of abuse or neglect and their families. The multidisciplinary team shall obtain and utilize any assessments for the children or the adult respondents that it deems necessary to assist in the development of that plan.

(b) In a case initiated pursuant to part six of this article, the treatment team consists of:

(1) The child or family’s case manager in the department;

(2) The adult respondent or respondents;

(3) The child’s parent or parents, guardians, any copetitioners, custodial relatives of the child, foster or preadoptive parents;

(4) Any attorney representing an adult respondent or other member of the treatment team;

(5) The child’s counsel or known as the guardian ad litem;

(6) The prosecuting attorney or his or her designee;

(7) A member of a child advocacy center when the child has been processed through the child advocacy center program or programs or it is otherwise appropriate that a member of the child advocacy center participate;

(8) Any court-appointed special advocate assigned to a case;

(9) Any other person entitled to notice and the right to be heard;

(10) An appropriate school official;

(11) A parent resource navigator;

(12) Any court-appointed assistant guardian ad litem.

~~(12)~~ (13) The managed care case coordinator; and

~~(13)~~ (14) Any other person or agency representative who may assist in providing recommendations for the particular needs of the child and family, including domestic violence service providers.

The child may participate in multidisciplinary treatment team meetings if the child's participation is deemed appropriate by the multidisciplinary treatment team. Unless otherwise ordered by the court, a party whose parental rights have been terminated and his or her attorney may not be given notice of a multidisciplinary treatment team meeting and do not have the right to participate in any treatment team meeting.

(c) Prior to disposition in each case in which a treatment planning team has been convened, the team shall advise the court as to the types of services the team has determined are needed and the type of placement, if any, which will best serve the needs of the child. If the team determines that an out-of-home placement will best serve the needs of the child, the team shall first consider placement with appropriate relatives then with foster care homes, facilities, or programs located within the state. The team may only recommend placement in an out-of-state facility if it concludes, after considering the best interests and overall needs of the child, that there are no available and suitable in-state facilities which can satisfactorily meet the specific needs of the child.

(d) The multidisciplinary treatment team shall submit written reports to the court as required by the rules governing this type of proceeding or by the court and shall meet as often as deemed necessary but at least every three months until the case is dismissed from the docket of the court. The multidisciplinary treatment team shall be available for status conferences and hearings as required by the court.

(e) If a respondent or copetitioner admits the underlying allegations of child abuse or neglect, or both abuse and neglect, in the multidisciplinary treatment planning process, his or her statements may not be used in any subsequent criminal proceeding against him or her, except for perjury or false swearing.

(a) Within thirty days of the initiation of a judicial proceeding pursuant to part six, of this article, the department shall convene a multidisciplinary treatment team to assess, plan and implement a comprehensive, individualized service plan for children who are victims of abuse or neglect and their families. The multidisciplinary team shall obtain and utilize any assessments for the children or the adult respondents that it deems necessary to assist in the development of that plan.

(b) In a case initiated pursuant to part six of this article, the treatment team consists of:

(1) The child or family's case manager in the department;

(2) The adult respondent or respondents;

(3) The child's parent or parents, guardians, any copetitioners, custodial relatives of the child, foster or preadoptive parents;

(4) Any attorney representing an adult respondent or other member of the treatment team;

(5) The child's counsel or the guardian ad litem;

(6) The prosecuting attorney or his or her designee;

(7) A member of a child advocacy center when the child has been processed through the child advocacy center program or programs or it is otherwise appropriate that a member of the child advocacy center participate;

(8) Any court-appointed special advocate assigned to a case;

(9) Any other person entitled to notice and the right to be heard;

(10) An appropriate school official;

(11) The managed care case coordinator; ~~and~~

(12) Any other person or agency representative who may assist in providing recommendations for the particular needs of the child and family, including domestic violence service providers; and

(13) Any court-appointed assistant guardian ad litem.

The child may participate in multidisciplinary treatment team meetings if the child's participation is deemed appropriate by the multidisciplinary treatment team. Unless otherwise ordered by the court, a party whose parental rights have been terminated and his or her attorney may not be given notice of a multidisciplinary treatment team meeting and does not have the right to participate in any treatment team meeting.

(c) Prior to disposition in each case which a treatment planning team has been convened, the team shall advise the court as to the types of services the team has determined are needed and the type of placement, if any, which will best serve the needs of the child. If the team determines that an out-of-home placement will best serve the needs of the child, the team shall first consider placement with appropriate relatives then with foster care homes, facilities or programs located within the state. The team may only recommend placement in an out-of-state facility if it concludes, after considering the best interests and overall needs of the child, that there are no available and suitable in-state facilities which can satisfactorily meet the specific needs of the child.

(d) The multidisciplinary treatment team shall submit written reports to the court as required by the rules governing this type of proceeding or by the court, and shall meet as often as deemed necessary but at least every three months until the case is dismissed from the docket

of the court. The multidisciplinary treatment team shall be available for status conferences and hearings as required by the court.

(e) If a respondent or copetitioner admits the underlying allegations of child abuse or neglect, or both abuse and neglect, in the multidisciplinary treatment planning process, his or her statements may not be used in any subsequent criminal proceeding against him or her, except for perjury or false swearing.

PART VI. PROCEDURES IN CASES OF CHILD NEGLECT OR ABUSE

§49-4-601. Petition to court when child believed neglected or abused; venue; notice; right to counsel; continuing legal education; findings; proceedings; procedure.

(a) *Petitioner and venue.* -- If the department or a reputable person believes that a child is neglected or abused, the department or the person may present a petition setting forth the facts to the circuit court in the county in which the child resides, or if the petition is being brought by the department, in the county in which the custodial respondent or other named party abuser resides, or in which the abuse or neglect occurred, or to the judge of the court in vacation. Under no circumstance may a party file a petition in more than one county based on the same set of facts.

(b) *Contents of Petition.* -- The petition shall be verified by the oath of some credible person having knowledge of the facts. The petition shall allege specific conduct including time and place, how the conduct comes within the statutory definition of neglect or abuse with references thereto, any supportive services provided by the department to remedy the alleged circumstances and the relief sought.

(c) *Court action upon filing of petition.* -- Upon filing of the petition, the court shall, by initial order, set a time and place for a hearing and shall appoint counsel for the child. When there is an order for temporary custody pursuant to this article, the preliminary hearing shall be held within ten days of the order continuing or transferring custody, unless a continuance for a reasonable time is granted to a date certain, for good cause shown.

17 (d) *Department action upon filing of the petition.* -- At the time of the institution of any
18 proceeding under this article, the department shall provide supportive services in an effort to
19 remedy circumstances detrimental to a child.

20 (e) *Notice of hearing.* --

21 (1) The petition and notice of the hearing shall be served upon both parents and any other
22 custodian, giving to the parents or custodian at least five days' actual notice of a preliminary
23 hearing and at least ten days' notice of any other hearing.

24 (2) Notice shall be given to the department, any foster or preadoptive parent, and any
25 relative providing care for the child.

26 (3) In cases where personal service within West Virginia cannot be obtained after due
27 diligence upon any parent or other custodian, a copy of the petition and notice of the hearing shall
28 be mailed to the person by certified mail, addressee only, return receipt requested, to the last
29 known address of the person. If the person signs the certificate, service shall be complete and
30 the certificate shall be filed as proof of the service with the clerk of the circuit court.

31 (4) If service cannot be obtained by personal service or by certified mail, notice shall be
32 by publication as a Class II legal advertisement in compliance with article three, chapter fifty-nine
33 of this code.

34 (5) A notice of hearing shall specify the time and place of the hearing, the right to counsel
35 of the child and parents or other custodians at every stage of the proceedings and the fact that
36 the proceedings can result in the permanent termination of the parental rights.

37 (6) Failure to object to defects in the petition and notice may not be construed as a waiver.

38 (f) *Right to counsel; discretionary appointment of assistant guardian ad litem.* --

39 (1) In any proceeding under this article, ~~the~~ a child, has the right to be represented by a
40 guardian ad litem, legal counsel, or both at every stage of the proceedings and a guardian ad
41 litem, legal counsel, or both will be appointed. In this initial order of appointment, the court shall
42 certify that the all appointed counsel have met all educational requirements to serve as a guardian

ad litem, shall outline the duties, obligations, and responsibilities of the guardian ad litem including requiring regular in-person contact with the minor child, or children, and shall require that the guardian ad litem, adhere to the requirements of the Rules of Procedure for Child Abuse and Neglect Proceedings, the Rules of Professional Conduct, and such other rules as the West Virginia Supreme Court of Appeals may promulgate, including any appendices thereto.

(2) In any proceeding under this article, a child's ~~his or her~~ parents and his or her legally established custodian or other persons standing in *loco parentis* to him or her has the right to be represented by counsel at every stage of the proceedings and shall be informed by the court of their right to be so represented and that if they cannot pay for the services of counsel, that counsel will be appointed.

~~(2)~~ (3) Counsel shall be appointed in the initial For parents, legal guardians, and other persons standing in *loco parentis*, the representation may only continue after the first appearance if the parent or other persons standing in *loco parentis* cannot pay for the services of counsel.

~~(3)~~ (4) Counsel for other parties shall only be appointed upon request for appointment of counsel. If the requesting parties have not retained counsel and cannot pay for the services of counsel, the court shall, by order entered of record, appoint an attorney or attorneys to represent the other party or parties and so inform the parties.

~~(4)~~ (5) Under no circumstances may the same attorney represent both the child and the other party or parties, nor may the same attorney represent both parents or custodians. However, one attorney may represent both parents or custodians where both parents or guardians consent to this representation after the attorney fully discloses to the client the possible conflict and where the attorney assures the court that she or he is able to represent each client without impairing her or his professional judgment; however, if more than one child from a family is involved in the proceeding, one attorney may represent all the children.

~~(5)~~ (6) A parent who is a copetitioner is entitled to his or her own attorney. The court may allow to each attorney so appointed a fee in the same amount which appointed counsel can

69 receive in felony cases.

70 (7) An assistant guardian ad litem may be appointed in the initial order or a subsequent
71 order, on the court's own motion or upon written request of the individual appointed or to be
72 appointed as guardian ad litem, to assist the guardian ad litem in carrying out his or her duties
73 including conducting visits, speaking directly with the child or children who are represented by the
74 guardian ad litem, meeting in-person with the child or children without the guardian ad litem
75 present following an initial meeting between the guardian ad litem and child or children, providing
76 periodic written reports to the guardian ad litem being assisted by the assistant guardian ad litem,
77 and attending hearings and multidisciplinary team meetings: *Provided*, That an individual
78 appointed as an assistant guardian ad litem must complete training that is approved by the
79 administrative office of the Supreme Court of Appeals before he or she may be appointed as an
80 assistant guardian ad litem.

81 (g) *Continuing education for counsel.* -- Any attorney representing a party under this article
82 shall receive a minimum of eight hours of continuing legal education training per reporting period
83 on child abuse and neglect procedure and practice. In addition to this requirement, any attorney
84 appointed to represent a child must first complete training on representation of children that is
85 approved by the administrative office of the Supreme Court of Appeals. The Supreme Court of
86 Appeals shall develop procedures for approval and certification of training required under this
87 section. Where no attorney has completed the training required by this subsection, the court shall
88 appoint a competent attorney with demonstrated knowledge of child welfare law to represent the
89 parent or child. Any attorney appointed pursuant to this section shall perform all duties required
90 of an attorney licensed to practice law in the State of West Virginia.

91 (h) *Right to be heard.* -- In any proceeding pursuant to this article, the party or parties
92 having custodial or other parental rights or responsibilities to the child shall be afforded a
93 meaningful opportunity to be heard, including the opportunity to testify and to present and cross-
94 examine witnesses. Foster parents, preadoptive parents, and relative caregivers shall also have

95 a meaningful opportunity to be heard.

96 (i) *Findings of the court.* -- Where relevant, the court shall consider the efforts of the
97 department to remedy the alleged circumstances. At the conclusion of the adjudicatory hearing,
98 the court shall make a determination based upon the evidence and shall make findings of fact
99 and conclusions of law as to whether the child is abused or neglected and whether the respondent
100 is abusing, neglecting, or, if applicable, a battered parent, all of which shall be incorporated into
101 the order of the court. The findings must be based upon conditions existing at the time of the filing
102 of the petition and proven by clear and convincing evidence.

103 (j) *Priority of proceedings.* -- Any petition filed and any proceeding held under this article
104 shall, to the extent practicable, be given priority over any other civil action before the court, except
105 proceedings under section three hundred nine, article twenty-seven, chapter forty-eight of this
106 code and actions in which trial is in progress. Any petition filed under this article shall be docketed
107 immediately upon filing. Any hearing to be held at the end of an improvement period and any
108 other hearing to be held during any proceedings under this article shall be held as nearly as
109 practicable on successive days and, with respect to the hearing to be held at the end of an
110 improvement period, shall be held as close in time as possible after the end of the improvement
111 period and shall be held within thirty days of the termination of the improvement period.

112 (k) *Procedural safeguards.* -- The petition may not be taken as confessed. A transcript or
113 recording shall be made of all proceedings unless waived by all parties to the proceeding. The
114 rules of evidence shall apply. Following the court's determination, it shall be inquired of the parents
115 or custodians whether or not appeal is desired and the response transcribed. A negative response
116 may not be construed as a waiver. The evidence shall be transcribed and made available to the
117 parties or their counsel as soon as practicable, if the same is required for purposes of further
118 proceedings. If an indigent person intends to pursue further proceedings, the court reporter shall
119 furnish a transcript of the hearing without cost to the indigent person if an affidavit is filed stating
120 that he or she cannot pay therefor.

§49-4-602. Petition to court when child believed neglected or abused; temporary care, custody, and control of child at different stages of proceeding; temporary care; orders; emergency removal; when reasonable efforts to preserve family are unnecessary.

(a)(1) *Temporary care, custody, and control upon filing of the petition.* -- Upon the filing of a petition, the court may order that the child alleged to be an abused or neglected child be delivered for not more than ten days into the care, custody, and control of the department or a responsible person who is not the custodial parent or guardian of the child, if it finds that:

(A) There exists imminent danger to the physical well-being of the child; and

(B) There are no reasonably available alternatives to removal of the child, including, but not limited to, the provision of medical, psychiatric, psychological or homemaking services in the child's present custody.

(2) Where the alleged abusing person, if known, is a member of a household, the court shall not allow placement pursuant to this section of the child or children in the home unless the alleged abusing person is or has been precluded from visiting or residing in the home by judicial order.

(3) In a case where there is more than one child in the home, or in the temporary care, custody or control of the alleged offending parent, the petition shall so state. Notwithstanding the fact that the allegations of abuse or neglect may pertain to less than all of those children, each child in the home for whom relief is sought shall be made a party to the proceeding. Even though the acts of abuse or neglect alleged in the petition were not directed against a specific child who is named in the petition, the court shall order the removal of the child, pending final disposition, if it finds that there exists imminent danger to the physical well-being of the child and a lack of reasonable available alternatives to removal.

(4) The initial order directing custody shall contain an order appointing counsel and scheduling the preliminary hearing, and upon its service shall require the immediate transfer of

care, custody, and control of the child or children to the department or a responsible relative, which may include any parent, guardian, or other custodian. The court order shall state:

(A) That continuation in the home is contrary to the best interests of the child and why; and

(B) Whether or not the department made reasonable efforts to preserve the family and prevent the placement or that the emergency situation made those efforts unreasonable or impossible. The order may also direct any party or the department to initiate or become involved in services to facilitate reunification of the family.

(b) Temporary care, custody and control at preliminary hearing. -- Whether or not the court orders immediate transfer of custody as provided in subsection (a) of this section, if the facts alleged in the petition demonstrate to the court that there exists imminent danger to the child, the court may schedule a preliminary hearing giving the respondents at least five days' actual notice. If the court finds at the preliminary hearing that there are no alternatives less drastic than removal of the child and that a hearing on the petition cannot be scheduled in the interim period, the court may order that the child be delivered into the temporary care, custody, and control of the department or a responsible person or agency found by the court to be a fit and proper person for the temporary care of the child for a period not exceeding sixty days. The court order shall state:

(1) That continuation in the home is contrary to the best interests of the child and set forth the reasons therefor;

(2) Whether or not the department made reasonable efforts to preserve the family and to prevent the child's removal from his or her home;

(3) Whether or not the department made reasonable efforts to preserve the family and to prevent the placement or that the emergency situation made those efforts unreasonable or impossible;

(4) Whether or not the department made reasonable accommodations in accordance with the Americans with Disabilities Act of 1990, 42 U.S.C. §12101, *et seq.*, to parents with disabilities

in order to allow them meaningful access to reunification and family preservation services; and

(5) What efforts should be made by the department, if any, to facilitate the child's return home. If the court grants an improvement period as provided in section six hundred ten of this article, the sixty-day limit upon temporary custody is waived.

(c) *Emergency removal by department during pendency of case.* -- Regardless of whether the court has previously granted the department care and custody of a child, if the department takes physical custody of a child during the pendency of a child abuse and neglect case (also known as removing the child) due to a change in circumstances and without a court order issued at the time of the removal, the department must immediately notify the court and a hearing shall take place within ten days to determine if there is imminent danger to the physical well-being of the child, and there is no reasonably available alternative to removal of the child. The court findings and order shall be consistent with subsections (a) and (b) of this section.

(d) *Situations when reasonable efforts to preserve the family are not required.* -- For purposes of the court's consideration of temporary custody pursuant to subsection (a), (b), or (c) of this section, the department is not required to make reasonable efforts to preserve the family if the court determines:

(1) The parent has subjected the child, another child of the parent or any other child residing in the same household or under the temporary or permanent custody of the parent to aggravated circumstances which include, but are not limited to, abandonment, torture, chronic abuse and sexual abuse;

(2) The parent has:

(A) Committed murder of the child's other parent, guardian or custodian, another child of the parent or any other child residing in the same household or under the temporary or permanent custody of the parent;

(B) Committed voluntary manslaughter of the child's other parent, guardian or custodian, another child of the parent or any other child residing in the same household or under the

temporary or permanent custody of the parent;

(C) Attempted or conspired to commit murder or voluntary manslaughter or been an accessory before or after the fact to either crime;

(D) Committed unlawful or malicious wounding that results in serious bodily injury to the child, the child's other parent, guardian or custodian, to another child of the parent or any other child residing in the same household or under the temporary or permanent custody of the parent;

(E) Committed sexual assault or sexual abuse of the child, the child's other parent, guardian or custodian, another child of the parent or any other child residing in the same household or under the temporary or permanent custody of the parent; or

(F) Has been required by state or federal law to register with a sex offender registry, and the court has determined in consideration of the nature and circumstances surrounding the prior charges against that parent, that the child's interests would not be promoted by a preservation of the family; or

(3) The parental rights of the parent to another child have been terminated involuntarily or consensually terminated pursuant to §49-4-607 of this code.

§49-4-604. Disposition of neglected or abused children; case plans; dispositions; factors to be considered; reunification; orders; alternative dispositions.

(a) *Child and family case plans.* — Following a determination pursuant to §49-4-602 of this code wherein the court finds a child to be abused or neglected, the department shall file with the court a copy of the child's case plan, including the permanency plan for the child. The term "case plan" means a written document that includes, where applicable, the requirements of the family case plan as provided in §49-4-408 of this code and that also includes, at a minimum, the following:

(1) A description of the type of home or institution in which the child is to be placed,

including a discussion of the appropriateness of the placement and how the agency which is responsible for the child plans to assure that the child receives proper care and that services are provided to the parents, child, and foster or kinship parents in order to improve the conditions that made the child unsafe in the care of his or her parent(s), including any reasonable accommodations in accordance with the Americans with Disabilities Act of 1990, 42 U. S. C. §12101 *et seq.*, to parents with disabilities in order to allow them meaningful access to reunification and family preservation services;

(2) A plan to facilitate the return of the child to his or her own home or the concurrent permanent placement of the child; and address the needs of the child while in kinship or foster care, including a discussion of the appropriateness of the services that have been provided to the child.

The term “permanency plan” refers to that part of the case plan which is designed to achieve a permanent home for the child in the least restrictive setting available. The plan must document efforts to ensure that the child is returned home within approximate time lines for reunification as set out in the plan. Reasonable efforts to place a child for adoption or with a legal guardian should be made at the same time, or concurrent with, reasonable efforts to prevent removal or to make it possible for a child to return to the care of his or her parent(s) safely. If reunification is not the permanency plan for the child, the plan must state why reunification is not appropriate and detail the alternative, concurrent permanent placement plans for the child to include approximate time lines for when the placement is expected to become a permanent placement. This case plan shall serve as the family case plan for parents of abused or neglected children. Copies of the child’s case plan shall be sent to the child’s attorney and parent, guardian or custodian or their counsel at least five days prior to the dispositional hearing. The court shall forthwith proceed to disposition giving both the petitioner and respondents an opportunity to be heard.

(b) Requirements for a Guardian ad litem, assistant guardian ad litem, and other appointed

attorneys. —

(1) A guardian ad litem appointed pursuant to §49-4-601(f)(1) of this code, shall, in the performance of his or her duties, adhere to any specific orders or directives from the court, the requirements of the Rules of Procedure for Child Abuse and Neglect Proceedings and the Rules of Professional Conduct and such other rules as the West Virginia Supreme Court of Appeals may promulgate, and any appendices thereto, and must meet all educational requirements for the guardian ad litem.

(2) A guardian ad litem, assistant guardian ad litem, or any other attorney appointed to represent a respondent, or intervenor may not be paid for his or her services without a court order specifying that the attorney, guardian ad litem, or assistant guardian ad litem has fully adhered to and satisfied the obligations, duties, responsibilities, and requirements of all court orders, and the Rules of Procedure for Child Abuse and Neglect Proceedings, Rules of Professional Conduct, and such other rules as the West Virginia Supreme Court of Appeals has promulgated, including any appendices therein, and has not engaged in any conduct that resulted in an unreasonable delay or continuance of the proceedings.

(3) A guardian ad litem, any other attorney appointed to represent a respondent, or intervenor, or assistant guardian ad litem may not be paid for his or her services without a court order that specifies that the guardian ad litem, the appointed attorney, or the appointed assistant guardian ad litem has meeting satisfied the certification and educational requirements of the court.

(4) The West Virginia Supreme Court of Appeals is requested to provide guidance to the judges of the circuit courts regarding supervision of said guardians ad litem. The West Virginia Supreme Court of Appeals is requested to review the Rules of Procedure for Child Abuse and Neglect Proceedings and the Rules of Professional Conduct specific to guardians ad litem.

(c) *Disposition decisions.* — The court shall give precedence to dispositions in the following sequence:

(1) Dismiss the petition;

(2) Refer the child, the abusing parent, the battered parent or other family members to a community agency for needed assistance and dismiss the petition;

(3) Return the child to his or her own home under supervision of the department;

(4) Order terms of supervision calculated to assist the child and any abusing parent or battered parent or parents or custodian which prescribe the manner of supervision and care of the child and which are within the ability of any parent or parents or custodian to perform;

(5) Upon a finding that the abusing parent or battered parent or parents are presently unwilling or unable to provide adequately for the child's needs, commit the child temporarily to the care, custody, and control of the department, a licensed private child welfare agency, or a suitable person who may be appointed guardian by the court. The court order shall state:

(A) That continuation in the home is contrary to the best interests of the child and why;

(B) Whether or not the department has made reasonable efforts, with the child's health and safety being the paramount concern, to preserve the family, or some portion thereof, and to prevent or eliminate the need for removing the child from the child's home and to make it possible for the child to safely return home;

(C) Whether the department has made reasonable accommodations in accordance with the Americans with Disabilities Act of 1990, 42 U. S. C. § 12101 *et seq.*, to parents with disabilities in order to allow them meaningful access to reunification and family preservation services;

(D) What efforts were made or that the emergency situation made those efforts unreasonable or impossible; and

(E) The specific circumstances of the situation which made those efforts unreasonable if services were not offered by the department. The court order shall also determine under what circumstances the child's commitment to the department are to continue. Considerations pertinent to the determination include whether the child should:

(i) Be considered for legal guardianship;

(ii) Be considered for permanent placement with a fit and willing relative; or

(iii) Be placed in another planned permanent living arrangement, but only in cases where the child has attained 16 years of age and the department has documented to the circuit court a compelling reason for determining that it would not be in the best interests of the child to follow one of the options set forth in subparagraphs (i) or (ii) of this paragraph. The court may order services to meet the special needs of the child. Whenever the court transfers custody of a youth to the department, an appropriate order of financial support by the parents or guardians shall be entered in accordance with §49-4-801 through §49-4-803 of this code;

(6) Upon a finding that there is no reasonable likelihood that the conditions of neglect or abuse can be substantially corrected in the near future and, when necessary for the welfare of the child, terminate the parental, custodial and guardianship rights and responsibilities of the abusing parent and commit the child to the permanent sole custody of the nonabusing parent, if there be one, or, if not, to either the permanent guardianship of the department or a licensed child welfare agency. The court may award sole custody of the child to a nonabusing battered parent. If the court shall so find, then in fixing its dispositional order the court shall consider the following factors:

(A) The child's need for continuity of care and caretakers;

(B) The amount of time required for the child to be integrated into a stable and permanent home environment; and

(C) Other factors as the court considers necessary and proper. Notwithstanding any other provision of this article, the court shall give consideration to the wishes of a child 14 years of age or older or otherwise of an age of discretion as determined by the court regarding the permanent termination of parental rights. No adoption of a child shall take place until all proceedings for termination of parental rights under this article and appeals thereof are final. In determining whether or not parental rights should be terminated, the court shall consider the efforts made by the department to provide remedial and reunification services to the parent. The court order shall state:

(i) That continuation in the home is not in the best interest of the child and why;

(ii) Why reunification is not in the best interests of the child;

(iii) Whether or not the department made reasonable efforts, with the child's health and safety being the paramount concern, to preserve the family, or some portion thereof, and to prevent the placement or to eliminate the need for removing the child from the child's home and to make it possible for the child to safely return home, or that the emergency situation made those efforts unreasonable or impossible; and

(iv) Whether or not the department made reasonable efforts to preserve and reunify the family, or some portion thereof, including a description of what efforts were made or that those efforts were unreasonable due to specific circumstances.

(7) For purposes of the court's consideration of the disposition custody of a child pursuant to this subsection, the department is not required to make reasonable efforts to preserve the family if the court determines:

(A) The parent has subjected the child, another child of the parent or any other child residing in the same household or under the temporary or permanent custody of the parent to aggravated circumstances which include, but are not limited to, abandonment, torture, chronic abuse, and sexual abuse;

(B) The parent has:

(i) Committed murder of the child's other parent, guardian or custodian, another child of the parent, or any other child residing in the same household or under the temporary or permanent custody of the parent;

(ii) Committed voluntary manslaughter of the child's other parent, guardian, or custodian, another child of the parent, or any other child residing in the same household or under the temporary or permanent custody of the parent;

(iii) Attempted or conspired to commit murder or voluntary manslaughter, or been an accessory before or after the fact to either crime;

(iv) Committed a malicious assault that results in serious bodily injury to the child, the child's other parent, guardian, or custodian, to another child of the parent, or any other child residing in the same household or under the temporary or permanent custody of the parent;

(v) Attempted or conspired to commit malicious assault, as outlined in subparagraph (iv), or been an accessory before or after the fact to the same;

(vi) Committed sexual assault or sexual abuse of the child, the child's other parent, guardian, or custodian, another child of the parent, or any other child residing in the same household or under the temporary or permanent custody of the parent; or

(vii) Attempted or conspired to commit sexual assault or sexual abuse, as outlined in subparagraph (vi), or been an accessory before or after the fact to the same.

(C) The parental rights of the parent to another child have been terminated involuntarily or consensually terminated pursuant to §49-4-607 of this code;

(D) A parent has been required by state or federal law to register with a sex offender registry, and the court has determined in consideration of the nature and circumstances surrounding the prior charges against that parent, that the child's interests would not be promoted by a preservation of the family.

(d) As used in this section, "No reasonable likelihood that conditions of neglect or abuse can be substantially corrected" means that, based upon the evidence before the court, the abusing adult or adults have demonstrated an inadequate capacity to solve the problems of abuse or neglect on their own or with help. Those conditions exist in the following circumstances, which are not exclusive:

(1) The abusing parent or parents have habitually abused or are addicted to alcohol, controlled substances or drugs, to the extent that proper parenting skills have been seriously impaired and the person or persons have not responded to or followed through the recommended and appropriate treatment which could have improved the capacity for adequate parental functioning;

(2) The abusing parent or parents have willfully refused or are presently unwilling to cooperate in the development of a reasonable family case plan designed to lead to the child's return to their care, custody and control;

(3) The abusing parent or parents have not responded to or followed through with a reasonable family case plan or other rehabilitative efforts of social, medical, mental health, or other rehabilitative agencies designed to reduce or prevent the abuse or neglect of the child, as evidenced by the continuation or insubstantial diminution of conditions which threatened the health, welfare, or life of the child;

(4) The abusing parent or parents have abandoned the child;

(5) The abusing parent or parents have repeatedly or seriously injured the child physically or emotionally, or have sexually abused or sexually exploited the child, and the degree of family stress and the potential for further abuse and neglect are so great as to preclude the use of resources to mitigate or resolve family problems, or assist the abusing parent or parents in fulfilling their responsibilities to the child; and

(6) The battered parent's parenting skills have been seriously impaired and the person has willfully refused or is presently unwilling or unable to cooperate in the development of a reasonable treatment plan, or has not adequately responded to or followed through with the recommended and appropriate treatment plan.

(e) The court may, as an alternative disposition, allow the parents or custodians an improvement period not to exceed six months. During this period the court shall require the parent to rectify the conditions upon which the determination was based. The court may order the child to be placed with the parents, or any person found to be a fit and proper person, for the temporary care of the child during the period. At the end of the period, the court shall hold a hearing to determine whether the conditions have been adequately improved and at the conclusion of the hearing shall make a further dispositional order in accordance with this section.

(f) The court may not terminate the parental rights of a parent on the sole basis that the

190 parent is participating in a medication-assisted treatment program, as regulated in §16-5Y-1 *et*
191 *seq.*, for substance use disorder, as long as the parent is successfully fulfilling his or her treatment
192 obligations in the medication-assisted treatment program.

§49-4-608. Permanency hearing; frequency; transitional planning; out-of-state placement; findings; notice; permanent placement review.

1 (a) Permanency hearing when reasonable efforts are not required. — If the court finds
2 pursuant to this article that the department is not required to make reasonable efforts to preserve
3 the family, then notwithstanding any other provision a permanency hearing must be held within
4 30 days following the entry of the court order so finding, and a permanent placement review
5 hearing must be conducted at least once every 90 days thereafter until a permanent placement
6 is achieved.

7 (b) Permanency hearing every 12 months until permanency is achieved. — If 12 months
8 after receipt by the department or its authorized agent of physical care, custody, and control of a
9 child either by a court-ordered placement or by a voluntary agreement the department has not
10 placed a child in an adoptive home, placed the child with a natural parent, placed the child in legal
11 guardianship, or permanently placed the child with a fit and willing relative, the court shall hold a
12 permanency hearing. The department shall file a progress report with the court detailing the efforts
13 that have been made to place the child in a permanent home and copies of the child's case plan,
14 which shall include the permanency plan as defined in §49-1-201 and §49-4-604 of this code.
15 Copies of the report shall be sent to the parties and all persons entitled to notice and the right to
16 be heard. The court shall schedule a hearing giving notice and the right to be present to the child's
17 attorney; the child; the child's parents; the child's guardians; the child's foster parents; any
18 preadoptive parent, or any relative providing care for the child; any person entitled to notice and
19 the right to be heard; and other persons as the court may, in its discretion, direct. The child's

presence may be waived by the child's attorney at the request of the child or if the child is younger than 12 years-of-age and would suffer emotional harm. The purpose of the hearing is to review the child's case, to determine whether and under what conditions the child's commitment to the department shall continue, to determine what efforts are necessary to provide the child with a permanent home, and to determine if the department has made reasonable efforts to finalize the permanency plan. The court shall conduct another permanency hearing within 12 months thereafter for each child who remains in the care, custody, and control of the department until the child is placed in an adoptive home, returned to his or her parents, placed in legal guardianship, or permanently placed with a fit and willing relative.

(c) Transitional planning for older children. — In the case of a child who has attained 16 years of age, the court shall determine the services needed to assist the child to make the transition from foster care to independent living. The child's case plan should specify services aimed at transitioning the child into adulthood. When a child turns 17, or as soon as a child aged 17 comes into a case, the department must immediately provide the child with assistance and support in developing a transition plan that is personalized at the direction of the child. The plan must include specific options on housing, health insurance, education, local opportunities for mentors, continuing support services, work force support, and employment services, and the plan should be as detailed as the child may elect. In addition to these requirements, when a child with special needs turns 17, or as soon as a child aged 17 with special needs comes into a case, he or she is entitled to the appointment of a department adult services worker to the multidisciplinary treatment team, and coordination between the multidisciplinary treatment team and other transition planning teams, such as special education individualized education planning (IEP) teams.

(d) Out-of-state placements. — A court may not order a child to be placed in an out-of-state facility unless the child is diagnosed with a health issue that no in-state facility or program serves unless a placement out of state is in closer proximity to the child's family for the necessary

care or the services are able to be provided more timely. If the child is to be placed with a relative or other responsible person out of state, the court shall use judicial leadership to help expedite the process under the Interstate Compact for the Placement of Children provided in §49-7-101 and §49-7-102 of this code and the Uniform Child Custody Jurisdiction and Enforcement Act provided in §48-20-101 *et seq.* of this code.

(e) Findings in order. — At the conclusion of the hearing the court shall, in accordance with the best interests of the child, enter an order containing all the appropriate findings. The court order shall state:

(1) Whether or not the department made reasonable efforts to preserve the family and to prevent out-of-home placement or that the specific situation made the effort unreasonable;

(2) Whether or not the department made reasonable efforts to finalize the permanency plan and concurrent plan for the child;

(3) The appropriateness of the child's current placement, including its distance from the child's home and whether or not it is the least restrictive one (or most family-like one) available;

(4) The appropriateness of the current educational setting and the proximity to the school in which the child is enrolled at the time of placement;

(5) Services required to meet the child's needs and achieve permanency; and

(6) In addition, in the case of any child for whom another planned permanent living arrangement is the permanency plan the court shall: (A) Inquire of the child about the desired permanency outcome for the child; (B) make a judicial determination explaining why, as of the date of the hearing, another planned permanent living arrangement is the best permanency plan for the child; and (C) provide in the court order compelling reasons why it continues to not be in the best interest of the child to: (i) return home, (ii) be placed for adoption, (iii) be placed with a legal guardian, or (iv) be placed with a fit and willing relative.

(f) The department shall annually report to the court the current status of the placements of children in the care, custody, and control of the state department who have not been adopted.

(g) The department shall file a report with the court in any case where any child in the custody of the state receives more than three placements in one year no later than 30 days after the third placement. This report shall be provided to all parties and persons entitled to notice and the right to be heard. Upon motion by any party, the court shall review these placements and determine what efforts are necessary to provide the child with a permanent home. No report may be provided to any parent or parent's attorney whose parental rights have been terminated pursuant to this article.

(h) The department shall give actual notice, in writing, to the court, the child, the child's attorney, the parents, and the parents' attorney at least 48 hours prior to the move if this is a planned move, or within 48 hours of the next business day after the move if the child is in imminent danger in the child's current placement, except where the notification would endanger the child or the foster family. A multidisciplinary treatment team shall convene as soon as practicable after notice to explore placement options. This requirement is not waived by placement of the child in a home or other residence maintained by a private provider. No notice may be provided pursuant to this provision to any parent or parent's attorney whose parental rights have been terminated pursuant to this article.

(i) Nothing in this article precludes any party from petitioning the court for review of the child's case at any time. The court shall grant the petition upon a showing that there is a change in circumstance or needs of the child that warrants court review.

(j) Any foster parent, preadoptive parent or relative providing care for the child shall be given notice of and the right to be heard at the permanency hearing provided in this section.

(k) Once an adoption case is assigned to a child placing agency, all related court hearing notices shall be sent to the child placing agency as an interested party.

(l) Any hearing scheduled pursuant to this section may be continued only for good cause upon a written motion properly served on all parties. When a court grants a continuance, the court shall enter an order granting the continuance specifying a future date when the hearing will be

held. Any court order granting a continuance of a hearing scheduled pursuant to this section shall specify the specific factual basis for granting the continuance, if the continuance was avoidable, and if the continuance was the result of any party, attorney, guardian ad litem, or assistant guardian ad litem not satisfying the court's previous orders or requirements. If a court finds that the continuance was avoidable but for unreasonable actions of an attorney, guardian ad litem, or assistant guardian ad litem the court shall direct that the clerk of the court provide to the West Virginia Public Defender Services a properly redacted certified order reflecting the court's findings of fact and conclusions of law.

(m) At the conclusion of any hearing convened pursuant to this section, the court shall make findings of fact and conclusions of law as to whether any attorney guardian ad litem, or assistant guardian ad litem has fully adhered to and satisfied the obligations, duties, responsibilities, and requirements of all court orders, and the Rules of Procedure for Child Abuse and Neglect Proceedings, Rules of Professional Conduct, and such other rules as the West Virginia Supreme Court of Appeals has promulgated, including any appendices therein.

§49-4-610. Improvement periods in cases of child neglect or abuse; findings; orders; extensions; hearings; time limits.

In any proceeding brought pursuant to this article, the court may grant any respondent an improvement period in accord with this article. During the period, the court may require temporary custody with a responsible person which has been found to be a fit and proper person for the temporary custody of the child or children or the state department or other agency during the improvement period. An order granting an improvement period shall require the department to prepare and submit to the court a family case plan in accordance with ~~section four hundred eight, of this article~~ §49-4-408 of this code. The types of improvement periods are as follows:

(1) *Pre-adjudicatory improvement period.* -- A court may grant a respondent an

improvement period of a period not to exceed three months prior to making a finding that a child is abused or neglected pursuant to section six hundred one of this article only when:

(A) The respondent files a written motion requesting the improvement period;

(B) The respondent demonstrates, by clear and convincing evidence, that the respondent is likely to fully participate in the improvement period and the court further makes a finding, on the record, of the terms of the improvement period;

(C) In the order granting the improvement period, the court:

(i) Orders that a hearing be held to review the matter within sixty days of the granting of the improvement period; or

(ii) Orders that a hearing be held to review the matter within ninety days of the granting of the improvement period and that the department submit a report as to the respondents progress in the improvement period within sixty days of the order granting the improvement period; and

(D) The order granting the improvement period requires the department to prepare and submit to the court an individualized family case plan in accordance with ~~section four hundred eight of this article~~ §49-4-408 of this code;

(E) The order granting a pre-adjudicatory improvement period shall outline the duties, obligations, and responsibilities of the guardian ad litem and assistant guardian ad litem throughout the duration of the pre-adjudicatory improvement period, including any case specific requirements that the court may order.

(2) *Post-adjudicatory improvement period.* -- After finding that a child is an abused or neglected child pursuant to section six hundred one of this article, a court may grant a respondent an improvement period of a period not to exceed six months when:

(A) The respondent files a written motion requesting the improvement period;

(B) The respondent demonstrates, by clear and convincing evidence, that the respondent is likely to fully participate in the improvement period and the court further makes a finding, on the record, of the terms of the improvement period;

(C) In the order granting the improvement period, the court:

(i) orders that a hearing be held to review the matter within thirty days of the granting of the improvement period; or

(ii) orders that a hearing be held to review the matter within ninety days of the granting of the improvement period and that the department submit a report as to the respondent's progress in the improvement period within sixty days of the order granting the improvement period;

(D) Since the initiation of the proceeding, the respondent has not previously been granted any improvement period or the respondent demonstrates that since the initial improvement period, the respondent has experienced a substantial change in circumstances. Further, the respondent shall demonstrate that due to that change in circumstances the respondent is likely to fully participate in a further improvement period; and

(E) The order granting the improvement period requires the department to prepare and submit to the court an individualized family case plan in accordance with section four hundred eight of this article.

(F) The order granting a post-adjudicatory improvement period shall outline the duties, obligations, and responsibilities of the guardian ad litem and assistant guardian ad litem throughout the duration of the post-adjudicatory improvement period, including any case specific requirements that the court may order.

(3) *Post-dispositional improvement period.* – The court may grant an improvement period not to exceed six months as a disposition pursuant to section six hundred four of this article when:

(A) The respondent moves in writing for the improvement period;

(B) The respondent demonstrates, by clear and convincing evidence, that the respondent is likely to fully participate in the improvement period and the court further makes a finding, on the record, of the terms of the improvement period;

(C) In the order granting the improvement period, the court:

(i) Orders that a hearing be held to review the matter within sixty days of the granting of

the improvement period; or

(ii) Orders that a hearing be held to review the matter within ninety days of the granting of the improvement period and that the department submit a report as to the respondent's progress in the improvement period within sixty days of the order granting the improvement period;

(D) Since the initiation of the proceeding, the respondent has not previously been granted any improvement period or the respondent demonstrates that since the initial improvement period, the respondent has experienced a substantial change in circumstances. Further, the respondent shall demonstrate that due to that change in circumstances, the respondent is likely to fully participate in the improvement period; and

(E) The order granting the improvement period shall require the department to prepare and submit to the court an individualized family case plan in accordance with section four hundred eight of this article.

(F) The order granting a post-dispositional improvement period shall outline the duties, obligations, and responsibilities of the guardian ad litem and assistant guardian ad litem throughout the duration of the post-dispositional improvement period, including any case specific requirements that the court may order.

(4) Responsibilities of the respondent receiving improvement period. --

(A) When any improvement period is granted to a respondent pursuant to this section, the respondent shall be responsible for the initiation and completion of all terms of the improvement period. The court may order the state department to pay expenses associated with the services provided during the improvement period when the respondent has demonstrated that he or she is unable to bear the expenses.

(B) When any improvement period is granted to a respondent pursuant to this section, the respondent shall execute a release of all medical information regarding that respondent, including, but not limited to, information provided by mental health and substance abuse professionals and facilities. The release shall be accepted by a professional or facility regardless of whether the

release conforms to any standard required by that facility.

(5) *Responsibilities of the department during improvement period.* -- When any respondent is granted an improvement period pursuant to this article, the department shall monitor the progress of the person in the improvement period. This section may not be construed to prohibit a court from ordering a respondent to participate in services designed to reunify a family or to relieve the department of any duty to make reasonable efforts to reunify a family required by state or federal law.

(6) Responsibilities of the guardian ad litem during improvement period.—When any respondent is granted an improvement period pursuant to this article, the guardian ad litem shall maintain regular in-person contact with the minor child, or children, and fully adhere to and satisfy the obligations, duties, responsibilities, and requirements of all court orders, the Rules of Procedure for Child Abuse and Neglect Proceedings, the Rules of Professional Conduct, and such other rules as the West Virginia Supreme Court of Appeals shall promulgate, including any appendices therein.

~~(6)~~ (7) *Extension of improvement period.* -- A court may extend any improvement period granted pursuant to subdivision (2) or (3) of this section for a period not to exceed three months when the court finds that the respondent has substantially complied with the terms of the improvement period; that the continuation of the improvement period will not substantially impair the ability of the department to permanently place the child; and that the extension is otherwise consistent with the best interest of the child.

~~(7)~~ (8) *Termination of improvement period.* -- Upon the motion by any party, the court shall terminate any improvement period granted pursuant to this section when the court finds that respondent has failed to fully participate in the terms of the improvement period or has satisfied the terms of the improvement period to correct any behavior alleged in the petition or amended petition to make his or her child unsafe.

~~(8)~~ (9) *Hearings on improvement period.* --

(A) Any hearing scheduled pursuant to this section may be continued only for good cause upon a written motion properly served on all parties. When a court grants a continuance, the court shall enter an order granting the continuance specifying a future date when the hearing will be held. Any court order granting a continuance of a hearing scheduled pursuant to this section shall specify the specific factual basis for granting the continuance and if it was the result of any party, attorney, guardian ad litem, or assistant guardian ad litem not satisfying the court's previous orders or requirements. If a court finds that the continuance was avoidable but for unreasonable actions of an attorney, or guardian ad litem, the court shall direct that the clerk of the court provide to the West Virginia Public Defender Services a properly redacted certified order reflecting the court's findings of fact and conclusions of law.

(B) Any hearing to be held at the end of an improvement period shall be held as nearly as practicable on successive days and shall be held as close in time as possible after the end of the improvement period and shall be held no later than thirty days of the termination of the improvement period.

(C) At the conclusion of any hearing convened pursuant to this subdivision, the court shall make written findings of fact and conclusions of law reflecting the progress made by any party on an improvement period. The court shall also make findings of fact and conclusions of law as to whether any attorney, guardian ad litem, or assistant guardian litem as fully adhered to and satisfied the obligations, duties, responsibilities, and requirements of all court orders, and the Rules of Procedure for Child Abuse and Neglect Proceedings, Rules of Professional Conduct, and such other rules as the West Virginia Supreme Court of Appeals has promulgated, including any appendices therein.

~~(9)~~ (10) *Time limit for improvement periods.* -- Notwithstanding any other provision of this section, no combination of any improvement periods or extensions thereto may cause a child to be in foster care more than fifteen months of the most recent twenty-two months, unless the court finds compelling circumstances by clear and convincing evidence that it is in the child's best

139 interests to extend the time limits contained in this paragraph.

NOTE: The purpose of this bill is to increase compensation of all panel attorneys and guardians ad litem. The bill also creates an assistant guardian ad litem position and outlines what language is required in juvenile abuse and neglect case orders.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.

DRAFT

WEST VIRGINIA LEGISLATURE

2026 REGULAR SESSION

Introduced

House Bill Number

BY ENTER SPONSORS HERE

[Introduced ; referred
to the Committee on]

1 A BILL to amend and reenact §49-2-802 of the Code of West Virginia, 1931, as amended, relating
2 to body-worn cameras; requiring Child Protective Services workers to attempt to wear
3 body-worn cameras during investigations; requiring workers to obtain consent to use body
4 worn cameras; permitting workers to refrain from using cameras in specific circumstances;
5 requiring audio and video to be maintained for specified time frame; and stating that audio
6 and video file is part of the confidential child welfare record.

Be it enacted by the Legislature of West Virginia:

ARTICLE 2. STATE RESPONSIBILITIES FOR CHILDREN.

**§49-2-802. Establishment of child protective services; general duties and powers;
administrative procedure; immunity from civil liability; cooperation of other state
agencies.**

1 (a) The department shall establish or designate in every county a local child protective
2 services office to perform the duties and functions set forth in this article.

3 (b) The local child protective services office shall investigate all reports of child abuse or
4 neglect. Under no circumstances may investigating personnel be relatives of the accused, the
5 child or the families involved. In accordance with the local plan for child protective services, it shall
6 provide protective services to prevent further abuse or neglect of children and provide for or
7 arrange for and coordinate and monitor the provision of those services necessary to ensure the
8 safety of children. The local child protective services office shall be organized to maximize the
9 continuity of responsibility, care, and service of individual workers for individual children and
10 families. Under no circumstances may the secretary or his or her designee promulgate rules or
11 establish any policy which restricts the scope or types of alleged abuse or neglect of minor
12 children which are to be investigated or the provision of appropriate and available services.

13 (c) Each local child protective services office shall:

14 (1) Receive or arrange for the receipt of all reports of children known or suspected to be
15 abused or neglected on a 24-hour, seven-day-a-week basis and cross-file all reports under the

names of the children, the family, and any person substantiated as being an abuser or neglecter by investigation of the Department of Human Services, with use of cross-filing of the person's name limited to the internal use of the department: *Provided*, That local child protective services offices shall disclose the names of alleged abusers pursuant to §49-2-802(c)(4) of this code;

(2) Provide or arrange for emergency children's services to be available at all times;

(3) Upon notification of suspected child abuse or neglect, commence or cause to be commenced a thorough investigation of the report and the child's environment. As a part of this response, within 14 days there shall be a face-to-face interview with the child or children and the development of a protection plan, if necessary, for the safety or health of the child, which may involve law-enforcement officers or the court;

(4) Make efforts as soon as practicable to determine the military status of parents whose children are subject to abuse or neglect allegations. If the office determines that a parent or guardian is in the military, the department shall notify a Department of Defense family advocacy program that there is an allegation of abuse and neglect that is screened in and open for investigation that relates to that military parent or guardian;

(5) Respond immediately to all allegations of imminent danger to the physical well-being of the child or of serious physical abuse. As a part of this response, within 72 hours there shall be a face-to-face interview with the child or children and the development of a protection plan, which may involve law-enforcement officers or the court; ~~and~~

(6) In addition to any other requirements imposed by this section, when any matter regarding child custody is pending, the circuit court or family court may refer allegations of child abuse and neglect to the local child protective services office for investigation of the allegations as defined by this chapter and require the local child protective services office to submit a written report of the investigation to the referring circuit court or family court within the time frames set forth by the circuit court or family court; and

(7) Require local child protective services workers to utilize a body worn camera while

investigating all reports of child abuse or neglect: *Provided*, That the child protective service worker shall obtain consent, from the person being investigated, to use the body worn camera during any part of an investigation which takes place in an area not in plain view and where a reasonable person would have an expectation of privacy: *Provided, however*, That the child protective service worker may refrain from using the body worn camera in the event that a body worn camera may, in the opinion of the child protective service worker, compromise the privacy of the child or impede the ability of the worker to conduct an investigation: *Provided further*, That the child protective services worker shall document in the case file the specific factual basis for not utilizing a body worn camera while investigating a report of child abuse or neglect. Any audio and video recording from the body worn cameras shall be preserved until all appellate timeframes have been exhausted. Any audio and video recording from the body worn cameras are considered a confidential record pursuant to §49-5-101 of this code and not subject to any disclosure pursuant to §29B-1-1 *et seq.* of this code.

(d) In those cases in which the local child protective services office determines that the best interests of the child require court action, the local child protective services office shall initiate the appropriate legal proceeding.

(e) The local child protective services office shall be responsible for providing, directing, or coordinating the appropriate and timely delivery of services to any child suspected or known to be abused or neglected, including services to the child's family and those responsible for the child's care.

(f) To carry out the purposes of this article, all departments, boards, bureaus, and other agencies of the state or any of its political subdivisions and all agencies providing services under the local child protective services plan shall, upon request, provide to the local child protective services office any assistance and information as will enable it to fulfill its responsibilities.

(g)(1) In order to obtain information regarding the location of a child who is the subject of an allegation of abuse or neglect, the Secretary of the Department of Human Services may serve,

by certified mail or personal service, an administrative subpoena on any corporation, partnership, business, or organization for the production of information leading to determining the location of the child.

(2) In case of disobedience to the subpoena, in compelling the production of documents, the secretary may invoke the aid of:

(A) The circuit court with jurisdiction over the served party if the person served is a resident; or

(B) The circuit court of the county in which the local child protective services office conducting the investigation is located if the person served is a nonresident.

(3) A circuit court shall not enforce an administrative subpoena unless it finds that:

(A) The investigation is one the Division of Child Protective Services is authorized to make and is being conducted pursuant to a legitimate purpose;

(B) The inquiry is relevant to that purpose;

(C) The inquiry is not too broad or indefinite;

(D) The information sought is not already in the possession of the Division of Child Protective Services; and

(E) Any administrative steps required by law have been followed.

(4) If circumstances arise where the secretary, or his or her designee, determines it necessary to compel an individual to provide information regarding the location of a child who is the subject of an allegation of abuse or neglect, the secretary, or his or her designee, may seek a subpoena from the circuit court with jurisdiction over the individual from whom the information is sought.

(h) No child protective services caseworker may be held personally liable for any professional decision or action taken pursuant to that decision in the performance of his or her official duties as set forth in this section or agency rules promulgated thereupon. However, nothing in this subsection protects any child protective services worker from any liability arising from the

- 94 operation of a motor vehicle or for any loss caused by gross negligence, willful and wanton
95 misconduct, or intentional misconduct.

NOTE: The purpose of this bill is to require local child protective workers to use body worn camera while conducting abuse and neglect investigations.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.

WEST VIRGINIA LEGISLATURE

2026 REGULAR SESSION

Introduced

Senate Bill Number

BY ENTER SPONSORS HERE

[Enter References]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,
2 designated §49-4-611, relating to the imposition of a time limitation on disposition
3 decisions in child abuse and neglect proceedings.

Be it enacted by the Legislature of West Virginia:

ARTICLE 4. COURT ACTIONS.

1 **§49-4-611. Time limitations for disposition decisions in abuse and neglect proceedings.**

2 Notwithstanding any other provision of this code to the contrary, a disposition decision, as
3 set forth in § 49-4-604(c) of this code, shall be rendered by the court no later than 12 months after
4 the date of the ratification of the initial petition.

WEST VIRGINIA LEGISLATURE

2026 REGULAR SESSION

Introduced

Senate Bill Number

BY ENTER SPONSORS HERE

[Enter References]

1 A BILL to amend and reenact §49-4-605 and §49-4-610 of the Code of West Virginia, 1931, as
2 amended, relating to increasing circumstances where the Department of Human Services
3 is required to seek termination of parental rights; and increasing circumstances where the
4 time limit for a respondent parent's improvement period, or combination or extension of
5 the respondent parent's improvement period, applies.

Be it enacted by the Legislature of West Virginia:

ARTICLE 4. COURT ACTIONS.

§49-4-605. When department efforts to terminate parental rights are required.

2 (a) Except as provided in §49-4-605(b) of this code, the department shall file or join in a
3 petition or otherwise seek a ruling in any pending proceeding to terminate parental rights:

4 (1) If a child has been in any of the following placements: foster care, kinship placement,
5 residential facility, or the care of a non-offending parent for 15 of the most recent 22 months as
6 determined by the earlier of the date of the first judicial finding that the child is subjected to abuse
7 or neglect or the date which is 60 days after the child is removed from the home;

8 (2) If a court has determined the child is abandoned, tortured, sexually abused, or
9 chronically abused;

10 (3) If a court has determined the parent has committed murder or voluntary manslaughter
11 of another of his or her children, another child in the household, or the other parent of his or her
12 children; has attempted or conspired to commit murder or voluntary manslaughter or has been an
13 accessory before or after the fact of either crime; has committed unlawful or malicious wounding
14 resulting in serious bodily injury to the child or to another of his or her children, another child in
15 the household or to the other parent of his or her children; has committed sexual assault or sexual
16 abuse of the child, the child's other parent, guardian or custodian, another child of the parent or
17 any other child residing in the same household or under the temporary or permanent custody of
18 the parent; or the parental rights of the parent to another child have been terminated involuntarily;
19 or

(4) If a parent whose child has been removed from the parent's care, custody, and control by an order of removal voluntarily fails to have contact or attempt to have contact with the child for a period of 18 consecutive months: Provided, That failure to have, or attempt to have, contact due to being incarcerated, being in a medical or drug treatment or recovery facility, or being on active military duty shall not be considered voluntary behavior.

(b) The department may determine not to file a petition to terminate parental rights when:

(1) At the option of the department, the child has been placed permanently with a relative by court order;

(2) The department has documented in the case plan made available for court review a compelling reason, including, but not limited to, the child's age and preference regarding termination or the child's placement in custody of the department based on any proceedings initiated under part seven of this article, that filing the petition would not be in the best interests of the child; or

(3) The department has not provided, when reasonable efforts to return a child to the family are required, the services to the child's family as the department deems necessary for the safe return of the child to the home.

§49-4-610. Improvement periods in cases of child neglect or abuse; findings; orders; extensions; hearings; time limits.

In any proceeding brought pursuant to this article, the court may grant any respondent an improvement period in accord with this article. During the period, the court may require temporary custody with a responsible person which has been found to be a fit and proper person for the temporary custody of the child or children or the state department or other agency during the improvement period. An order granting an improvement period shall require the department to prepare and submit to the court a family case plan in accordance with section four hundred eight, of this article. The types of improvement periods are as follows:

(1) *Preadjudicatory improvement period.* -- A court may grant a respondent an

improvement period of a period not to exceed three months prior to making a finding that a child is abused or neglected pursuant to section six hundred one of this article only when:

(A) The respondent files a written motion requesting the improvement period;

(B) The respondent demonstrates, by clear and convincing evidence, that the respondent is likely to fully participate in the improvement period and the court further makes a finding, on the record, of the terms of the improvement period;

(C) In the order granting the improvement period, the court:

(i) Orders that a hearing be held to review the matter within sixty days of the granting of the improvement period; or

(ii) Orders that a hearing be held to review the matter within ninety days of the granting of the improvement period and that the department submit a report as to the respondents progress in the improvement period within sixty days of the order granting the improvement period; and

(D) The order granting the improvement period requires the department to prepare and submit to the court an individualized family case plan in accordance with section four hundred eight of this article;

(2) Post-adjudicatory improvement period. -- After finding that a child is an abused or neglected child pursuant to section six hundred one of this article, a court may grant a respondent an improvement period of a period not to exceed six months when:

(A) The respondent files a written motion requesting the improvement period;

(B) The respondent demonstrates, by clear and convincing evidence, that the respondent is likely to fully participate in the improvement period and the court further makes a finding, on the record, of the terms of the improvement period;

(C) In the order granting the improvement period, the court:

(i) orders that a hearing be held to review the matter within thirty days of the granting of the improvement period; or

(ii) orders that a hearing be held to review the matter within ninety days of the granting of

the improvement period and that the department submit a report as to the respondent's progress in the improvement period within sixty days of the order granting the improvement period;

(D) Since the initiation of the proceeding, the respondent has not previously been granted any improvement period or the respondent demonstrates that since the initial improvement period, the respondent has experienced a substantial change in circumstances. Further, the respondent shall demonstrate that due to that change in circumstances the respondent is likely to fully participate in a further improvement period; and

(E) The order granting the improvement period requires the department to prepare and submit to the court an individualized family case plan in accordance with section four hundred eight of this article.

(3) *Post-dispositional improvement period.* – The court may grant an improvement period not to exceed six months as a disposition pursuant to section six hundred four of this article when:

(A) The respondent moves in writing for the improvement period;

(B) The respondent demonstrates, by clear and convincing evidence, that the respondent is likely to fully participate in the improvement period and the court further makes a finding, on the record, of the terms of the improvement period;

(C) In the order granting the improvement period, the court:

(i) Orders that a hearing be held to review the matter within sixty days of the granting of the improvement period; or

(ii) Orders that a hearing be held to review the matter within ninety days of the granting of the improvement period and that the department submit a report as to the respondent's progress in the improvement period within sixty days of the order granting the improvement period;

(D) Since the initiation of the proceeding, the respondent has not previously been granted any improvement period or the respondent demonstrates that since the initial improvement period, the respondent has experienced a substantial change in circumstances. Further, the respondent shall demonstrate that due to that change in circumstances, the respondent is likely to fully

61 participate in the improvement period; and

62 (E) The order granting the improvement period shall require the department to prepare
63 and submit to the court an individualized family case plan in accordance with section four hundred
64 eight of this article.

65 (4) *Responsibilities of the respondent receiving improvement period.* --

66 (A) When any improvement period is granted to a respondent pursuant to this section, the
67 respondent shall be responsible for the initiation and completion of all terms of the improvement
68 period. The court may order the state department to pay expenses associated with the services
69 provided during the improvement period when the respondent has demonstrated that he or she
70 is unable to bear the expenses.

71 (B) When any improvement period is granted to a respondent pursuant to this section, the
72 respondent shall execute a release of all medical information regarding that respondent, including,
73 but not limited to, information provided by mental health and substance abuse professionals and
74 facilities. The release shall be accepted by a professional or facility regardless of whether the
75 release conforms to any standard required by that facility.

76 (5) *Responsibilities of the department during improvement period.* -- When any respondent
77 is granted an improvement period pursuant to this article, the department shall monitor the
78 progress of the person in the improvement period. This section may not be construed to prohibit
79 a court from ordering a respondent to participate in services designed to reunify a family or to
80 relieve the department of any duty to make reasonable efforts to reunify a family required by state
81 or federal law.

82 (6) *Extension of improvement period.* -- A court may extend any improvement period
83 granted pursuant to subdivision (2) or (3) of this section for a period not to exceed three months
84 when the court finds that the respondent has substantially complied with the terms of the
85 improvement period; that the continuation of the improvement period will not substantially impair
86 the ability of the department to permanently place the child; and that the extension is otherwise

87 consistent with the best interest of the child.

88 (7) *Termination of improvement period.* -- Upon the motion by any party, the court shall
89 terminate any improvement period granted pursuant to this section when the court finds that
90 respondent has failed to fully participate in the terms of the improvement period or has satisfied
91 the terms of the improvement period to correct any behavior alleged in the petition or amended
92 petition to make his or her child unsafe.

93 (8) *Hearings on improvement period.* --

94 (A) Any hearing scheduled pursuant to this section may be continued only for good cause
95 upon a written motion properly served on all parties. When a court grants a continuance, the court
96 shall enter an order granting the continuance specifying a future date when the hearing will be
97 held.

98 (B) Any hearing to be held at the end of an improvement period shall be held as nearly as
99 practicable on successive days and shall be held as close in time as possible after the end of the
100 improvement period and shall be held no later than thirty days of the termination of the
101 improvement period.

102 (9) *Time limit for improvement periods.* -- Notwithstanding any other provision of this
103 section, no combination of any improvement periods or extensions thereto may cause a child to
104 be in any of the following placements: foster care, kinship placement, residential facility, or the
105 care of a non-offending parent more than fifteen months of the most recent twenty-two months,
106 unless the court finds compelling circumstances by clear and convincing evidence that it is in the
107 child's best interests to extend the time limits contained in this paragraph.

WEST VIRGINIA LEGISLATURE

2026 REGULAR SESSION

Introduced

House Bill Number

BY ENTER SPONSORS HERE

[Introduced ; referred

to the Committee on]

1 A BILL to amend and reenact §49-4-601, §49-4-602, §49-4-604, §49-4-608, and §49-4-610 of the
2 Code of West Virginia, 1931, as amended relating to requiring the circuit court to make
3 certain designated findings of fact and conclusions of law in its juvenile child abuse and
4 neglect orders.

Be it enacted by the Legislature of West Virginia:

PART VI. PROCEDURES IN CASES OF CHILD NEGLECT OR ABUSE

§49-4-601. Petition to court when child believed neglected or abused; venue; notice; right to counsel; continuing legal education; findings; proceedings; procedure.

1 (a) *Petitioner and venue.* -- If the department or a reputable person believes that a child is
2 neglected or abused, the department or the person may present a petition setting forth the facts
3 to the circuit court in the county in which the child resides, or if the petition is being brought by the
4 department, in the county in which the custodial respondent or other named party abuser resides,
5 or in which the abuse or neglect occurred, or to the judge of the court in vacation. Under no
6 circumstance may a party file a petition in more than one county based on the same set of facts.

7 (b) *Contents of Petition.* -- The petition shall be verified by the oath of some credible person
8 having knowledge of the facts. The petition shall allege specific conduct including time and place,
9 how the conduct comes within the statutory definition of neglect or abuse with references thereto,
10 any supportive services provided by the department to remedy the alleged circumstances and the
11 relief sought.

12 (c) *Court action upon filing of petition.* -- Upon filing of the petition, the court shall, by initial
13 order, set a time and place for a hearing and shall appoint counsel for the child. When there is
14 an order for temporary custody pursuant to this article, the preliminary hearing shall be held within
15 ten days of the order continuing or transferring custody, unless a continuance for a reasonable
16 time is granted to a date certain, for good cause shown.

17 (d) *Department action upon filing of the petition.* -- At the time of the institution of any
18 proceeding under this article, the department shall provide supportive services in an effort to

remedy circumstances detrimental to a child.

(e) Notice of hearing. --

(1) The petition and notice of the hearing shall be served upon both parents and any other custodian, giving to the parents or custodian at least five days' actual notice of a preliminary hearing and at least ten days' notice of any other hearing.

(2) Notice shall be given to the department, any foster or preadoptive parent, and any relative providing care for the child.

(3) In cases where personal service within West Virginia cannot be obtained after due diligence upon any parent or other custodian, a copy of the petition and notice of the hearing shall be mailed to the person by certified mail, addressee only, return receipt requested, to the last known address of the person. If the person signs the certificate, service shall be complete and the certificate shall be filed as proof of the service with the clerk of the circuit court.

(4) If service cannot be obtained by personal service or by certified mail, notice shall be by publication as a Class II legal advertisement in compliance with article three, chapter fifty-nine of this code.

(5) A notice of hearing shall specify the time and place of the hearing, the right to counsel of the child and parents or other custodians at every stage of the proceedings and the fact that the proceedings can result in the permanent termination of the parental rights.

(6) Failure to object to defects in the petition and notice may not be construed as a waiver.

(f) Right to counsel. --

(1) In any proceeding under this article, the a child, has the right to be represented by a guardian ad litem, legal counsel, or both at every stage of the proceedings and a guardian ad litem, legal counsel, or both will be appointed. In this initial order of appointment, the court shall certify that the all appointed counsel have met all educational requirements to serve as a guardian ad litem, shall outline the duties, obligations, and responsibilities of the guardian ad litem including requiring regular in-person contact with the minor child, or children, and shall require that the

guardian ad litem, adhere to the requirements of the Rules of Procedure for Child Abuse and Neglect Proceedings, the Rules of Professional Conduct, and such other rules as the West Virginia Supreme Court of Appeals may promulgate, including any appendices thereto.

(2) In any proceeding under this article, a child's ~~his or her~~ parents and his or her legally established custodian or other persons standing in *loco parentis* to him or her has the right to be represented by counsel at every stage of the proceedings and shall be informed by the court of their right to be so represented and that if they cannot pay for the services of counsel, that counsel will be appointed.

~~(2)~~ (3) Counsel shall be appointed in the initial For parents, legal guardians, and other persons standing in *loco parentis*, the representation may only continue after the first appearance if the parent or other persons standing in *loco parentis* cannot pay for the services of counsel.

~~(3)~~ (4) Counsel for other parties shall only be appointed upon request for appointment of counsel. If the requesting parties have not retained counsel and cannot pay for the services of counsel, the court shall, by order entered of record, appoint an attorney or attorneys to represent the other party or parties and so inform the parties.

(4) (5) Under no circumstances may the same attorney represent both the child and the other party or parties, nor may the same attorney represent both parents or custodians. However, one attorney may represent both parents or custodians where both parents or guardians consent to this representation after the attorney fully discloses to the client the possible conflict and where the attorney assures the court that she or he is able to represent each client without impairing her or his professional judgment; however, if more than one child from a family is involved in the proceeding, one attorney may represent all the children.

~~(5)~~ (6) A parent who is a copetitioner is entitled to his or her own attorney. The court may allow to each attorney so appointed a fee in the same amount which appointed counsel can receive in felony cases.

(g) *Continuing education for counsel.* -- Any attorney representing a party under this article

shall receive a minimum of eight hours of continuing legal education training per reporting period on child abuse and neglect procedure and practice. In addition to this requirement, any attorney appointed to represent a child must first complete training on representation of children that is approved by the administrative office of the Supreme Court of Appeals. The Supreme Court of Appeals shall develop procedures for approval and certification of training required under this section. Where no attorney has completed the training required by this subsection, the court shall appoint a competent attorney with demonstrated knowledge of child welfare law to represent the parent or child. Any attorney appointed pursuant to this section shall perform all duties required of an attorney licensed to practice law in the State of West Virginia.

(h) *Right to be heard.* -- In any proceeding pursuant to this article, the party or parties having custodial or other parental rights or responsibilities to the child shall be afforded a meaningful opportunity to be heard, including the opportunity to testify and to present and cross-examine witnesses. Foster parents, preadoptive parents, and relative caregivers shall also have a meaningful opportunity to be heard.

(i) *Findings of the court.* -- Where relevant, the court shall consider the efforts of the department to remedy the alleged circumstances. At the conclusion of the adjudicatory hearing, the court shall make a determination based upon the evidence and shall make findings of fact and conclusions of law as to whether the child is abused or neglected and whether the respondent is abusing, neglecting, or, if applicable, a battered parent, all of which shall be incorporated into the order of the court. The findings must be based upon conditions existing at the time of the filing of the petition and proven by clear and convincing evidence.

(j) *Priority of proceedings.* -- Any petition filed and any proceeding held under this article shall, to the extent practicable, be given priority over any other civil action before the court, except proceedings under section three hundred nine, article twenty-seven, chapter forty-eight of this code and actions in which trial is in progress. Any petition filed under this article shall be docketed immediately upon filing. Any hearing to be held at the end of an improvement period and any

other hearing to be held during any proceedings under this article shall be held as nearly as practicable on successive days and, with respect to the hearing to be held at the end of an improvement period, shall be held as close in time as possible after the end of the improvement period and shall be held within thirty days of the termination of the improvement period.

(k) *Procedural safeguards.* -- The petition may not be taken as confessed. A transcript or recording shall be made of all proceedings unless waived by all parties to the proceeding. The rules of evidence shall apply. Following the court's determination, it shall be inquired of the parents or custodians whether or not appeal is desired and the response transcribed. A negative response may not be construed as a waiver. The evidence shall be transcribed and made available to the parties or their counsel as soon as practicable, if the same is required for purposes of further proceedings. If an indigent person intends to pursue further proceedings, the court reporter shall furnish a transcript of the hearing without cost to the indigent person if an affidavit is filed stating that he or she cannot pay therefor.

§49-4-602. Petition to court when child believed neglected or abused; temporary care, custody, and control of child at different stages of proceeding; temporary care; orders; emergency removal; when reasonable efforts to preserve family are unnecessary.

(a)(1) *Temporary care, custody, and control upon filing of the petition.* -- Upon the filing of a petition, the court may order that the child alleged to be an abused or neglected child be delivered for not more than ten days into the care, custody, and control of the department or a responsible person who is not the custodial parent or guardian of the child, if it finds that:

(A) There exists imminent danger to the physical well-being of the child; and

(B) There are no reasonably available alternatives to removal of the child, including, but not limited to, the provision of medical, psychiatric, psychological or homemaking services in the child's present custody.

(2) Where the alleged abusing person, if known, is a member of a household, the court

shall not allow placement pursuant to this section of the child or children in the home unless the alleged abusing person is or has been precluded from visiting or residing in the home by judicial order.

(3) In a case where there is more than one child in the home, or in the temporary care, custody or control of the alleged offending parent, the petition shall so state. Notwithstanding the fact that the allegations of abuse or neglect may pertain to less than all of those children, each child in the home for whom relief is sought shall be made a party to the proceeding. Even though the acts of abuse or neglect alleged in the petition were not directed against a specific child who is named in the petition, the court shall order the removal of the child, pending final disposition, if it finds that there exists imminent danger to the physical well-being of the child and a lack of reasonable available alternatives to removal.

(4) The initial order directing custody shall contain an order appointing counsel and scheduling the preliminary hearing, and upon its service shall require the immediate transfer of care, custody, and control of the child or children to the department or a responsible relative, which may include any parent, guardian, or other custodian. The court order shall state:

(A) That continuation in the home is contrary to the best interests of the child and why; and

(B) Whether or not the department made reasonable efforts to preserve the family and prevent the placement or that the emergency situation made those efforts unreasonable or impossible. The order may also direct any party or the department to initiate or become involved in services to facilitate reunification of the family.

(b) *Temporary care, custody and control at preliminary hearing.* -- Whether or not the court orders immediate transfer of custody as provided in subsection (a) of this section, if the facts alleged in the petition demonstrate to the court that there exists imminent danger to the child, the court may schedule a preliminary hearing giving the respondents at least five days' actual notice. If the court finds at the preliminary hearing that there are no alternatives less drastic than removal

of the child and that a hearing on the petition cannot be scheduled in the interim period, the court may order that the child be delivered into the temporary care, custody, and control of the department or a responsible person or agency found by the court to be a fit and proper person for the temporary care of the child for a period not exceeding sixty days. The court order shall state:

(1) That continuation in the home is contrary to the best interests of the child and set forth the reasons therefor;

(2) Whether or not the department made reasonable efforts to preserve the family and to prevent the child's removal from his or her home;

(3) Whether or not the department made reasonable efforts to preserve the family and to prevent the placement or that the emergency situation made those efforts unreasonable or impossible;

(4) Whether or not the department made reasonable accommodations in accordance with the Americans with Disabilities Act of 1990, 42 U.S.C. §12101, *et seq.*, to parents with disabilities in order to allow them meaningful access to reunification and family preservation services; and

(5) What efforts should be made by the department, if any, to facilitate the child's return home. If the court grants an improvement period as provided in section six hundred ten of this article, the sixty-day limit upon temporary custody is waived.

(c) Emergency removal by department during pendency of case. -- Regardless of whether the court has previously granted the department care and custody of a child, if the department takes physical custody of a child during the pendency of a child abuse and neglect case (also known as removing the child) due to a change in circumstances and without a court order issued at the time of the removal, the department must immediately notify the court and a hearing shall take place within ten days to determine if there is imminent danger to the physical well-being of the child, and there is no reasonably available alternative to removal of the child. The court findings and order shall be consistent with subsections (a) and (b) of this section.

(d) Situations when reasonable efforts to preserve the family are not required. -- For

purposes of the court's consideration of temporary custody pursuant to subsection (a), (b), or (c) of this section, the department is not required to make reasonable efforts to preserve the family if the court determines:

(1) The parent has subjected the child, another child of the parent or any other child residing in the same household or under the temporary or permanent custody of the parent to aggravated circumstances which include, but are not limited to, abandonment, torture, chronic abuse and sexual abuse;

(2) The parent has:

(A) Committed murder of the child's other parent, guardian or custodian, another child of the parent or any other child residing in the same household or under the temporary or permanent custody of the parent;

(B) Committed voluntary manslaughter of the child's other parent, guardian or custodian, another child of the parent or any other child residing in the same household or under the temporary or permanent custody of the parent;

(C) Attempted or conspired to commit murder or voluntary manslaughter or been an accessory before or after the fact to either crime;

(D) Committed unlawful or malicious wounding that results in serious bodily injury to the child, the child's other parent, guardian or custodian, to another child of the parent or any other child residing in the same household or under the temporary or permanent custody of the parent;

(E) Committed sexual assault or sexual abuse of the child, the child's other parent, guardian or custodian, another child of the parent or any other child residing in the same household or under the temporary or permanent custody of the parent; or

(F) Has been required by state or federal law to register with a sex offender registry, and the court has determined in consideration of the nature and circumstances surrounding the prior charges against that parent, that the child's interests would not be promoted by a preservation of the family; or

88 (3) The parental rights of the parent to another child have been terminated involuntarily or
89 consensually terminated pursuant to §49-4-607 of this code.

§49-4-604. Disposition of neglected or abused children; case plans; dispositions; factors to be considered; reunification; orders; alternative dispositions.

1 (a) *Child and family case plans.* — Following a determination pursuant to §49-4-602 of
2 this code wherein the court finds a child to be abused or neglected, the department shall file with
3 the court a copy of the child's case plan, including the permanency plan for the child. The term
4 "case plan" means a written document that includes, where applicable, the requirements of the
5 family case plan as provided in §49-4-408 of this code and that also includes, at a minimum, the
6 following:

7 (1) A description of the type of home or institution in which the child is to be placed,
8 including a discussion of the appropriateness of the placement and how the agency which is
9 responsible for the child plans to assure that the child receives proper care and that services are
10 provided to the parents, child, and foster or kinship parents in order to improve the conditions that
11 made the child unsafe in the care of his or her parent(s), including any reasonable
12 accommodations in accordance with the Americans with Disabilities Act of 1990, 42 U. S. C.
13 §12101 *et seq.*, to parents with disabilities in order to allow them meaningful access to
14 reunification and family preservation services;

15 (2) A plan to facilitate the return of the child to his or her own home or the concurrent
16 permanent placement of the child; and address the needs of the child while in kinship or foster
17 care, including a discussion of the appropriateness of the services that have been provided to the
18 child.

19 The term "permanency plan" refers to that part of the case plan which is designed to
20 achieve a permanent home for the child in the least restrictive setting available. The plan must

document efforts to ensure that the child is returned home within approximate time lines for reunification as set out in the plan. Reasonable efforts to place a child for adoption or with a legal guardian should be made at the same time, or concurrent with, reasonable efforts to prevent removal or to make it possible for a child to return to the care of his or her parent(s) safely. If reunification is not the permanency plan for the child, the plan must state why reunification is not appropriate and detail the alternative, concurrent permanent placement plans for the child to include approximate time lines for when the placement is expected to become a permanent placement. This case plan shall serve as the family case plan for parents of abused or neglected children. Copies of the child's case plan shall be sent to the child's attorney and parent, guardian or custodian or their counsel at least five days prior to the dispositional hearing. The court shall forthwith proceed to disposition giving both the petitioner and respondents an opportunity to be heard.

(b) *Requirements for a Guardian ad litem and other appointed attorneys.* —

(1) A guardian ad litem appointed pursuant to §49-4-601(f)(1) of this code, shall, in the performance of his or her duties, adhere to any specific orders or directives from the court, the requirements of the Rules of Procedure for Child Abuse and Neglect Proceedings and the Rules of Professional Conduct and such other rules as the West Virginia Supreme Court of Appeals may promulgate, and any appendices thereto, and must meet all educational requirements for the guardian ad litem.

(2) A guardian ad litem, or any other attorney appointed to represent a respondent, or intervenor may not be paid for his or her services without a court order specifying that the attorney or guardian ad litem has fully adhered to and satisfied the obligations, duties, responsibilities, and requirements of all court orders, and the Rules of Procedure for Child Abuse and Neglect Proceedings, Rules of Professional Conduct, and such other rules as the West Virginia Supreme Court of Appeals has promulgated, including any appendices therein, and has not engaged in any conduct that resulted in an unreasonable delay or continuance of the proceedings.

47 (3) A guardian ad litem or attorney appointed to represent a respondent or intervenor may
48 not be paid for his or her services without a court order that specifies that the guardian ad litem
49 or the appointed attorney has ~~meeting~~ satisfied the certification and educational requirements of
50 the court.

51 (4) The West Virginia Supreme Court of Appeals is requested to provide guidance to the
52 judges of the circuit courts regarding supervision of said guardians ad litem. The West Virginia
53 Supreme Court of Appeals is requested to review the Rules of Procedure for Child Abuse and
54 Neglect Proceedings and the Rules of Professional Conduct specific to guardians ad litem.

55 (c) *Disposition decisions.* — The court shall give precedence to dispositions in the
56 following sequence:

57 (1) Dismiss the petition;

58 (2) Refer the child, the abusing parent, the battered parent or other family members to a
59 community agency for needed assistance and dismiss the petition;

60 (3) Return the child to his or her own home under supervision of the department;

61 (4) Order terms of supervision calculated to assist the child and any abusing parent or
62 battered parent or parents or custodian which prescribe the manner of supervision and care of
63 the child and which are within the ability of any parent or parents or custodian to perform;

64 (5) Upon a finding that the abusing parent or battered parent or parents are presently
65 unwilling or unable to provide adequately for the child's needs, commit the child temporarily to the
66 care, custody, and control of the department, a licensed private child welfare agency, or a suitable
67 person who may be appointed guardian by the court. The court order shall state:

68 (A) That continuation in the home is contrary to the best interests of the child and why;

69 (B) Whether or not the department has made reasonable efforts, with the child's health
70 and safety being the paramount concern, to preserve the family, or some portion thereof, and to
71 prevent or eliminate the need for removing the child from the child's home and to make it possible
72 for the child to safely return home;

(C) Whether the department has made reasonable accommodations in accordance with the Americans with Disabilities Act of 1990, 42 U. S. C. § 12101 *et seq.*, to parents with disabilities in order to allow them meaningful access to reunification and family preservation services;

(D) What efforts were made or that the emergency situation made those efforts unreasonable or impossible; and

(E) The specific circumstances of the situation which made those efforts unreasonable if services were not offered by the department. The court order shall also determine under what circumstances the child's commitment to the department are to continue. Considerations pertinent to the determination include whether the child should:

(i) Be considered for legal guardianship;

(ii) Be considered for permanent placement with a fit and willing relative; or

(iii) Be placed in another planned permanent living arrangement, but only in cases where the child has attained 16 years of age and the department has documented to the circuit court a compelling reason for determining that it would not be in the best interests of the child to follow one of the options set forth in subparagraphs (i) or (ii) of this paragraph. The court may order services to meet the special needs of the child. Whenever the court transfers custody of a youth to the department, an appropriate order of financial support by the parents or guardians shall be entered in accordance with §49-4-801 through §49-4-803 of this code;

(6) Upon a finding that there is no reasonable likelihood that the conditions of neglect or abuse can be substantially corrected in the near future and, when necessary for the welfare of the child, terminate the parental, custodial and guardianship rights and responsibilities of the abusing parent and commit the child to the permanent sole custody of the nonabusing parent, if there be one, or, if not, to either the permanent guardianship of the department or a licensed child welfare agency. The court may award sole custody of the child to a nonabusing battered parent. If the court shall so find, then in fixing its dispositional order the court shall consider the following factors:

99 (A) The child's need for continuity of care and caretakers;

100 (B) The amount of time required for the child to be integrated into a stable and permanent
101 home environment; and

102 (C) Other factors as the court considers necessary and proper. Notwithstanding any other
103 provision of this article, the court shall give consideration to the wishes of a child 14 years of age
104 or older or otherwise of an age of discretion as determined by the court regarding the permanent
105 termination of parental rights. No adoption of a child shall take place until all proceedings for
106 termination of parental rights under this article and appeals thereof are final. In determining
107 whether or not parental rights should be terminated, the court shall consider the efforts made by
108 the department to provide remedial and reunification services to the parent. The court order shall
109 state:

110 (i) That continuation in the home is not in the best interest of the child and why;

111 (ii) Why reunification is not in the best interests of the child;

112 (iii) Whether or not the department made reasonable efforts, with the child's health and
113 safety being the paramount concern, to preserve the family, or some portion thereof, and to
114 prevent the placement or to eliminate the need for removing the child from the child's home and
115 to make it possible for the child to safely return home, or that the emergency situation made those
116 efforts unreasonable or impossible; and

117 (iv) Whether or not the department made reasonable efforts to preserve and reunify the
118 family, or some portion thereof, including a description of what efforts were made or that those
119 efforts were unreasonable due to specific circumstances.

120 (7) For purposes of the court's consideration of the disposition custody of a child pursuant
121 to this subsection, the department is not required to make reasonable efforts to preserve the
122 family if the court determines:

123 (A) The parent has subjected the child, another child of the parent or any other child
124 residing in the same household or under the temporary or permanent custody of the parent to

aggravated circumstances which include, but are not limited to, abandonment, torture, chronic abuse, and sexual abuse;

(B) The parent has:

(i) Committed murder of the child's other parent, guardian or custodian, another child of the parent, or any other child residing in the same household or under the temporary or permanent custody of the parent;

(ii) Committed voluntary manslaughter of the child's other parent, guardian, or custodian, another child of the parent, or any other child residing in the same household or under the temporary or permanent custody of the parent;

(iii) Attempted or conspired to commit murder or voluntary manslaughter, or been an accessory before or after the fact to either crime;

(iv) Committed a malicious assault that results in serious bodily injury to the child, the child's other parent, guardian, or custodian, to another child of the parent, or any other child residing in the same household or under the temporary or permanent custody of the parent;

(v) Attempted or conspired to commit malicious assault, as outlined in subparagraph (iv), or been an accessory before or after the fact to the same;

(vi) Committed sexual assault or sexual abuse of the child, the child's other parent, guardian, or custodian, another child of the parent, or any other child residing in the same household or under the temporary or permanent custody of the parent; or

(vii) Attempted or conspired to commit sexual assault or sexual abuse, as outlined in subparagraph (vi), or been an accessory before or after the fact to the same.

(C) The parental rights of the parent to another child have been terminated involuntarily or consensually terminated pursuant to §49-4-607 of this code;

(D) A parent has been required by state or federal law to register with a sex offender registry, and the court has determined in consideration of the nature and circumstances surrounding the prior charges against that parent, that the child's interests would not be promoted

by a preservation of the family.

(d) As used in this section, “No reasonable likelihood that conditions of neglect or abuse can be substantially corrected” means that, based upon the evidence before the court, the abusing adult or adults have demonstrated an inadequate capacity to solve the problems of abuse or neglect on their own or with help. Those conditions exist in the following circumstances, which are not exclusive:

(1) The abusing parent or parents have habitually abused or are addicted to alcohol, controlled substances or drugs, to the extent that proper parenting skills have been seriously impaired and the person or persons have not responded to or followed through the recommended and appropriate treatment which could have improved the capacity for adequate parental functioning;

(2) The abusing parent or parents have willfully refused or are presently unwilling to cooperate in the development of a reasonable family case plan designed to lead to the child’s return to their care, custody and control;

(3) The abusing parent or parents have not responded to or followed through with a reasonable family case plan or other rehabilitative efforts of social, medical, mental health, or other rehabilitative agencies designed to reduce or prevent the abuse or neglect of the child, as evidenced by the continuation or insubstantial diminution of conditions which threatened the health, welfare, or life of the child;

(4) The abusing parent or parents have abandoned the child;

(5) The abusing parent or parents have repeatedly or seriously injured the child physically or emotionally, or have sexually abused or sexually exploited the child, and the degree of family stress and the potential for further abuse and neglect are so great as to preclude the use of resources to mitigate or resolve family problems, or assist the abusing parent or parents in fulfilling their responsibilities to the child; and

(6) The battered parent’s parenting skills have been seriously impaired and the person

has willfully refused or is presently unwilling or unable to cooperate in the development of a reasonable treatment plan, or has not adequately responded to or followed through with the recommended and appropriate treatment plan.

(e) The court may, as an alternative disposition, allow the parents or custodians an improvement period not to exceed six months. During this period the court shall require the parent to rectify the conditions upon which the determination was based. The court may order the child to be placed with the parents, or any person found to be a fit and proper person, for the temporary care of the child during the period. At the end of the period, the court shall hold a hearing to determine whether the conditions have been adequately improved and at the conclusion of the hearing shall make a further dispositional order in accordance with this section.

(f) The court may not terminate the parental rights of a parent on the sole basis that the parent is participating in a medication-assisted treatment program, as regulated in §16-5Y-1 *et seq.*, for substance use disorder, as long as the parent is successfully fulfilling his or her treatment obligations in the medication-assisted treatment program.

§49-4-608. Permanency hearing; frequency; transitional planning; out-of-state placement; findings; notice; permanent placement review.

(a) Permanency hearing when reasonable efforts are not required. — If the court finds pursuant to this article that the department is not required to make reasonable efforts to preserve the family, then notwithstanding any other provision a permanency hearing must be held within 30 days following the entry of the court order so finding, and a permanent placement review hearing must be conducted at least once every 90 days thereafter until a permanent placement is achieved.

(b) Permanency hearing every 12 months until permanency is achieved. — If 12 months after receipt by the department or its authorized agent of physical care, custody, and control of a

child either by a court-ordered placement or by a voluntary agreement the department has not placed a child in an adoptive home, placed the child with a natural parent, placed the child in legal guardianship, or permanently placed the child with a fit and willing relative, the court shall hold a permanency hearing. The department shall file a progress report with the court detailing the efforts that have been made to place the child in a permanent home and copies of the child's case plan, which shall include the permanency plan as defined in §49-1-201 and §49-4-604 of this code. Copies of the report shall be sent to the parties and all persons entitled to notice and the right to be heard. The court shall schedule a hearing giving notice and the right to be present to the child's attorney; the child; the child's parents; the child's guardians; the child's foster parents; any preadoptive parent, or any relative providing care for the child; any person entitled to notice and the right to be heard; and other persons as the court may, in its discretion, direct. The child's presence may be waived by the child's attorney at the request of the child or if the child is younger than 12 years-of-age and would suffer emotional harm. The purpose of the hearing is to review the child's case, to determine whether and under what conditions the child's commitment to the department shall continue, to determine what efforts are necessary to provide the child with a permanent home, and to determine if the department has made reasonable efforts to finalize the permanency plan. The court shall conduct another permanency hearing within 12 months thereafter for each child who remains in the care, custody, and control of the department until the child is placed in an adoptive home, returned to his or her parents, placed in legal guardianship, or permanently placed with a fit and willing relative.

(c) Transitional planning for older children. — In the case of a child who has attained 16 years of age, the court shall determine the services needed to assist the child to make the transition from foster care to independent living. The child's case plan should specify services aimed at transitioning the child into adulthood. When a child turns 17, or as soon as a child aged 17 comes into a case, the department must immediately provide the child with assistance and support in developing a transition plan that is personalized at the direction of the child. The plan

must include specific options on housing, health insurance, education, local opportunities for mentors, continuing support services, work force support, and employment services, and the plan should be as detailed as the child may elect. In addition to these requirements, when a child with special needs turns 17, or as soon as a child aged 17 with special needs comes into a case, he or she is entitled to the appointment of a department adult services worker to the multidisciplinary treatment team, and coordination between the multidisciplinary treatment team and other transition planning teams, such as special education individualized education planning (IEP) teams.

(d) Out-of-state placements. — A court may not order a child to be placed in an out-of-state facility unless the child is diagnosed with a health issue that no in-state facility or program serves unless a placement out of state is in closer proximity to the child's family for the necessary care or the services are able to be provided more timely. If the child is to be placed with a relative or other responsible person out of state, the court shall use judicial leadership to help expedite the process under the Interstate Compact for the Placement of Children provided in §49-7-101 and §49-7-102 of this code and the Uniform Child Custody Jurisdiction and Enforcement Act provided in §48-20-101 *et seq.* of this code.

(e) Findings in order. — At the conclusion of the hearing the court shall, in accordance with the best interests of the child, enter an order containing all the appropriate findings. The court order shall state:

(1) Whether or not the department made reasonable efforts to preserve the family and to prevent out-of-home placement or that the specific situation made the effort unreasonable;

(2) Whether or not the department made reasonable efforts to finalize the permanency plan and concurrent plan for the child;

(3) The appropriateness of the child's current placement, including its distance from the child's home and whether or not it is the least restrictive one (or most family-like one) available;

(4) The appropriateness of the current educational setting and the proximity to the school

in which the child is enrolled at the time of placement;

(5) Services required to meet the child's needs and achieve permanency; and

(6) In addition, in the case of any child for whom another planned permanent living arrangement is the permanency plan the court shall: (A) Inquire of the child about the desired permanency outcome for the child; (B) make a judicial determination explaining why, as of the date of the hearing, another planned permanent living arrangement is the best permanency plan for the child; and (C) provide in the court order compelling reasons why it continues to not be in the best interest of the child to: (i) return home, (ii) be placed for adoption, (iii) be placed with a legal guardian, or (iv) be placed with a fit and willing relative.

(f) The department shall annually report to the court the current status of the placements of children in the care, custody, and control of the state department who have not been adopted.

(g) The department shall file a report with the court in any case where any child in the custody of the state receives more than three placements in one year no later than 30 days after the third placement. This report shall be provided to all parties and persons entitled to notice and the right to be heard. Upon motion by any party, the court shall review these placements and determine what efforts are necessary to provide the child with a permanent home. No report may be provided to any parent or parent's attorney whose parental rights have been terminated pursuant to this article.

(h) The department shall give actual notice, in writing, to the court, the child, the child's attorney, the parents, and the parents' attorney at least 48 hours prior to the move if this is a planned move, or within 48 hours of the next business day after the move if the child is in imminent danger in the child's current placement, except where the notification would endanger the child or the foster family. A multidisciplinary treatment team shall convene as soon as practicable after notice to explore placement options. This requirement is not waived by placement of the child in a home or other residence maintained by a private provider. No notice may be provided pursuant to this provision to any parent or parent's attorney whose parental rights have been terminated

pursuant to this article.

(i) Nothing in this article precludes any party from petitioning the court for review of the child's case at any time. The court shall grant the petition upon a showing that there is a change in circumstance or needs of the child that warrants court review.

(j) Any foster parent, preadoptive parent or relative providing care for the child shall be given notice of and the right to be heard at the permanency hearing provided in this section.

(k) Once an adoption case is assigned to a child placing agency, all related court hearing notices shall be sent to the child placing agency as an interested party.

(l) Any hearing scheduled pursuant to this section may be continued only for good cause upon a written motion properly served on all parties. When a court grants a continuance, the court shall enter an order granting the continuance specifying a future date when the hearing will be held. Any court order granting a continuance of a hearing scheduled pursuant to this section shall specify the specific factual basis for granting the continuance, if the continuance was avoidable, and if the continuance was the result of any party, attorney, or guardian ad litem not satisfying the court's previous orders or requirements. If a court finds that the continuance was avoidable but for unreasonable actions of an attorney or guardian ad litem the court shall direct that the clerk of the court provide to the West Virginia Public Defender Services a properly redacted certified order reflecting the court's findings of fact and conclusions of law.

(m) At the conclusion of any hearing convened pursuant to this section, the court shall make findings of fact and conclusions of law as to whether any attorney or guardian ad litem has fully adhered to and satisfied the obligations, duties, responsibilities, and requirements of all court orders, and the Rules of Procedure for Child Abuse and Neglect Proceedings, Rules of Professional Conduct, and such other rules as the West Virginia Supreme Court of Appeals has promulgated, including any appendices therein.

§49-4-610. Improvement periods in cases of child neglect or abuse; findings; orders; extensions; hearings; time limits.

1 In any proceeding brought pursuant to this article, the court may grant any respondent an
2 improvement period in accord with this article. During the period, the court may require temporary
3 custody with a responsible person which has been found to be a fit and proper person for the
4 temporary custody of the child or children or the state department or other agency during the
5 improvement period. An order granting an improvement period shall require the department to
6 prepare and submit to the court a family case plan in accordance with ~~section four hundred eight,~~
7 ~~of this article~~ §49-4-408 of this code. The types of improvement periods are as follows:

8 (1) *Pre-adjudicatory improvement period.* -- A court may grant a respondent an
9 improvement period of a period not to exceed three months prior to making a finding that a child
10 is abused or neglected pursuant to section six hundred one of this article only when:

11 (A) The respondent files a written motion requesting the improvement period;

12 (B) The respondent demonstrates, by clear and convincing evidence, that the respondent
13 is likely to fully participate in the improvement period and the court further makes a finding, on the
14 record, of the terms of the improvement period;

15 (C) In the order granting the improvement period, the court:

16 (i) Orders that a hearing be held to review the matter within sixty days of the granting of
17 the improvement period; or

18 (ii) Orders that a hearing be held to review the matter within ninety days of the granting of
19 the improvement period and that the department submit a report as to the respondents progress
20 in the improvement period within sixty days of the order granting the improvement period; and

21 (D) The order granting the improvement period requires the department to prepare and
22 submit to the court an individualized family case plan in accordance with ~~section four hundred~~
23 ~~eight of this article~~ §49-4-408 of this code;

24 (E) The order granting a pre-adjudicatory improvement period shall outline the duties,

obligations, and responsibilities of the guardian ad litem throughout the duration of the pre-adjudicatory improvement period, including any case specific requirements that the court may order.

(2) Post-adjudicatory improvement period. -- After finding that a child is an abused or neglected child pursuant to section six hundred one of this article, a court may grant a respondent an improvement period of a period not to exceed six months when:

(A) The respondent files a written motion requesting the improvement period;

(B) The respondent demonstrates, by clear and convincing evidence, that the respondent is likely to fully participate in the improvement period and the court further makes a finding, on the record, of the terms of the improvement period;

(C) In the order granting the improvement period, the court:

(i) orders that a hearing be held to review the matter within thirty days of the granting of the improvement period; or

(ii) orders that a hearing be held to review the matter within ninety days of the granting of the improvement period and that the department submit a report as to the respondent's progress in the improvement period within sixty days of the order granting the improvement period;

(D) Since the initiation of the proceeding, the respondent has not previously been granted any improvement period or the respondent demonstrates that since the initial improvement period, the respondent has experienced a substantial change in circumstances. Further, the respondent shall demonstrate that due to that change in circumstances the respondent is likely to fully participate in a further improvement period; and

(E) The order granting the improvement period requires the department to prepare and submit to the court an individualized family case plan in accordance with section four hundred eight of this article.

(F) The order granting a post-adjudicatory improvement period shall outline the duties, obligations, and responsibilities of the guardian ad litem throughout the duration of the post-

51 adjudicatory improvement period, including any case specific requirements that the court may
52 order.

53 (3) *Post-dispositional improvement period.* – The court may grant an improvement period
54 not to exceed six months as a disposition pursuant to section six hundred four of this article when:

55 (A) The respondent moves in writing for the improvement period;

56 (B) The respondent demonstrates, by clear and convincing evidence, that the respondent
57 is likely to fully participate in the improvement period and the court further makes a finding, on the
58 record, of the terms of the improvement period;

59 (C) In the order granting the improvement period, the court:

60 (i) Orders that a hearing be held to review the matter within sixty days of the granting of
61 the improvement period; or

62 (ii) Orders that a hearing be held to review the matter within ninety days of the granting of
63 the improvement period and that the department submit a report as to the respondent's progress
64 in the improvement period within sixty days of the order granting the improvement period;

65 (D) Since the initiation of the proceeding, the respondent has not previously been granted
66 any improvement period or the respondent demonstrates that since the initial improvement period,
67 the respondent has experienced a substantial change in circumstances. Further, the respondent
68 shall demonstrate that due to that change in circumstances, the respondent is likely to fully
69 participate in the improvement period; and

70 (E) The order granting the improvement period shall require the department to prepare
71 and submit to the court an individualized family case plan in accordance with section four hundred
72 eight of this article.

73 (F) The order granting a post-dispositional improvement period shall outline the duties,
74 obligations, and responsibilities of the guardian ad litem throughout the duration of the post-
75 dispositional improvement period, including any case specific requirements that the court may
76 order.

77 (4) *Responsibilities of the respondent receiving improvement period.* --

78 (A) When any improvement period is granted to a respondent pursuant to this section, the
79 respondent shall be responsible for the initiation and completion of all terms of the improvement
80 period. The court may order the state department to pay expenses associated with the services
81 provided during the improvement period when the respondent has demonstrated that he or she
82 is unable to bear the expenses.

83 (B) When any improvement period is granted to a respondent pursuant to this section, the
84 respondent shall execute a release of all medical information regarding that respondent, including,
85 but not limited to, information provided by mental health and substance abuse professionals and
86 facilities. The release shall be accepted by a professional or facility regardless of whether the
87 release conforms to any standard required by that facility.

88 (5) *Responsibilities of the department during improvement period.* -- When any respondent
89 is granted an improvement period pursuant to this article, the department shall monitor the
90 progress of the person in the improvement period. This section may not be construed to prohibit
91 a court from ordering a respondent to participate in services designed to reunify a family or to
92 relieve the department of any duty to make reasonable efforts to reunify a family required by state
93 or federal law.

94 (6) Responsibilities of the guardian ad litem during improvement period.—When any
95 respondent is granted an improvement period pursuant to this article, the guardian ad litem shall
96 maintain regular in-person contact with the minor child, or children, and fully adhere to and satisfy
97 the obligations, duties, responsibilities, and requirements of all court orders, the Rules of
98 Procedure for Child Abuse and Neglect Proceedings, the Rules of Professional Conduct, and
99 such other rules as the West Virginia Supreme Court of Appeals shall promulgate, including any
100 appendices therein.

101 ~~(6)~~ (7) *Extension of improvement period.* -- A court may extend any improvement period
102 granted pursuant to subdivision (2) or (3) of this section for a period not to exceed three months

when the court finds that the respondent has substantially complied with the terms of the improvement period; that the continuation of the improvement period will not substantially impair the ability of the department to permanently place the child; and that the extension is otherwise consistent with the best interest of the child.

~~(7)~~ (8) *Termination of improvement period.* -- Upon the motion by any party, the court shall terminate any improvement period granted pursuant to this section when the court finds that respondent has failed to fully participate in the terms of the improvement period or has satisfied the terms of the improvement period to correct any behavior alleged in the petition or amended petition to make his or her child unsafe.

~~(8)~~ (9) *Hearings on improvement period.* --

(A) Any hearing scheduled pursuant to this section may be continued only for good cause upon a written motion properly served on all parties. When a court grants a continuance, the court shall enter an order granting the continuance specifying a future date when the hearing will be held. Any court order granting a continuance of a hearing scheduled pursuant to this section shall specify the specific factual basis for granting the continuance and if it was the result of any party, attorney or guardian ad litem not satisfying the court's previous orders or requirements. If a court finds that the continuance was avoidable but for unreasonable actions of an attorney or guardian ad litem the court shall direct that the clerk of the court provide to the West Virginia Public Defender Services a properly redacted certified order reflecting the court's findings of fact and conclusions of law.

(B) Any hearing to be held at the end of an improvement period shall be held as nearly as practicable on successive days and shall be held as close in time as possible after the end of the improvement period and shall be held no later than thirty days of the termination of the improvement period.

(C) At the conclusion of any hearing convened pursuant to this subdivision, the court shall make written findings of fact and conclusions of law reflecting the progress made by any party on

an improvement period. The court shall also make findings of fact and conclusions of law as to whether any attorney or guardian ad litem has fully adhered to and satisfied the obligations, duties, responsibilities, and requirements of all court orders, and the Rules of Procedure for Child Abuse and Neglect Proceedings, Rules of Professional Conduct, and such other rules as the West Virginia Supreme Court of Appeals has promulgated, including any appendices therein.

~~(9)~~ (10) *Time limit for improvement periods.* -- Notwithstanding any other provision of this section, no combination of any improvement periods or extensions thereto may cause a child to be in foster care more than fifteen months of the most recent twenty-two months, unless the court finds compelling circumstances by clear and convincing evidence that it is in the child's best interests to extend the time limits contained in this paragraph.

NOTE: The purpose of this bill is to amend the West Virginia Code in relation to juvenile abuse and neglect proceedings to require that circuit courts make certain findings of fact and conclusions of law as it relates to the court's orders.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.

WEST VIRGINIA LEGISLATURE

2026 REGULAR SESSION

Introduced

Senate Bill Number

BY ENTER SPONSORS HERE

[Enter References]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article,
2 designated §49-12-101, §49-12-102, §49-12-103, and §49-12-104, relating to clothing and
3 necessity allowance; setting forth the purpose of the article, defining terms; setting forth
4 the requirements to obtain funding from the Department of Social Services for approved
5 necessities, an adequate wardrobe and any supplementary clothing assistance; and
6 setting forth the amount and form of payment.

Be it enacted by the Legislature of West Virginia:

**ARTICLE 12. REQUIREMENTS FOR CLOTHING ALLOWANCE AND APPROVED
NECESSITIES.**

§49-12-101. Purpose.

1 The purpose of this article is to establish requirements for an adequate wardrobe and
2 approved necessities for children removed from their home and in the legal custody of the
3 department and to set forth payment methods.

§49-12-102. Definitions.

1 For purposes of this article:

2 “Approved necessities” means items, other than clothes, necessary to care for the child.

3 “Adequate wardrobe” means clothes that are in good condition, appropriate for all
4 seasons, and fit the child for the entirety of their time in foster care.

5 “Initial clothing allowance” means funding, from the Bureau of Social Services to the
6 placement provider to cover expenses for an adequate wardrobe and to supply a child with
7 approved necessities at the time of initial placement, if needed.

8 “Inventory” means a listing of the child’s wardrobe and necessities when the child enters
9 the placement and is required to be updated periodically throughout the placement period. This
10 inventory shall follow the child throughout all placements.

11 “Department” means the Department of Human Services.

12 “Placement provider” means a foster parent, kinship/relative provider, or residential care
13 provider.

14 “Supplementary clothing assistance” means a clothing allowance and approved necessity
15 to meet extraordinary needs to the child such as necessity by illness or irreparable damage to
16 clothing and necessities.

§49-12-103. Requirements.

1 (a) At the time of initial placement, a child shall be assessed, including but not limited to a
2 review of the child’s current clothing, necessities, and inventory, by the placement provider in
3 conjunction with the child welfare worker to determine if:

4 (1) The child possesses an adequate wardrobe and approved necessities; or

5 (2) The child needs to be issued an initial clothing allowance to obtain an adequate
6 wardrobe and approved necessities.

7 (b) If the child possesses an adequate wardrobe and approved necessities at the time of
8 initial placement, no further action is needed at that time.

9 (c) If the child does not have an adequate wardrobe and approved necessities at the time
10 of the initial placement, then the placement provider shall seek a clothing allowance to purchase
11 an adequate wardrobe for the child.

12 (d) If the child does not have approved necessities at the time of the initial placement, then
13 the placement provider shall seek a clothing allowance to purchase approved necessities for the
14 child.

15 (e) The initial clothing allowance is not intended to completely outfit the child but only to
16 supply the child with immediate clothing and necessities.

17 (f) It is the obligation of the placement provider to supply the child with clothing and
18 necessities for as long as the child remains in their care and to periodically update the clothing
19 and necessity inventory.

§49-12-104. Amount and form of payment.

1 (a) The child's initial clothing allowance shall be issued for a minimum of \$375.

2 (b) The child's supplemental clothing allowance may be issued for an amount up to, and
3 not to exceed, \$175 per each supplement allowance.

4 (c) The initial clothing allowance and any supplementary clothing allowance shall be paid
5 through three separate avenues:

6 (1) The first and primary option for payment of the clothing allowance is a reloadable
7 instant card:

8 (2) The second option for payment of the clothing allowance is for the child welfare worker
9 or case aid to use their purchasing card:

10 (3) The third option is to provide reimbursement to a placement provider who purchases
11 clothing allowance items using their own funds. This item is to be used as a last resort.

12 (d) With respect to the instant card:

13 (1) The instant card shall be issued to the placement provider or re-loaded with funding
14 within 48 hours of the child being placed with the placement provider.

15 (2) The instant card may be used online or in any store that accepts an electronic payment
16 transaction.

17 (3) The department shall create and adopt a policy for the use of the instant card which
18 shall be provided to the placement provider upon issuance of the card, which shall include but not
19 be limited to an explanation of proper purchases that may be made with the instant card, an
20 explanation of how and when the card can be re-loaded, and the need to keep receipts for
21 reconciliation of purchases.

22 (e) With respect to the purchasing card:

23 (1) If it is decided that the child welfare worker or case aid will purchase the items with
24 their purchasing card, then the child welfare worker or case aid shall save the receipts; and

25 (2) The child welfare worker and case aid shall follow the reconciliation process as they
26 normally would under the purchasing card program.

27 (f) With respect to demand payment or reimbursement to the placement provider (this
28 method is not recommended and should only be used as a last resort);

29 (1) If it is decided that the kinship/relative placement provider is going to purchase the
30 child's clothing or approved necessities using their own funds with the expectation of
31 reimbursement from the department, then a receipt from the kinship/relative provider shall be
32 supplied to the child welfare worker in order to obtain reimbursement; or

33 (2) If a foster care provider chooses to purchase clothing or approved necessities, then
34 all receipts for clothing items or approved necessities from the foster care provider shall be
35 provided to their child placing agency in order for the child placing agency to invoice the
36 department for reimbursement.

NOTE: The purpose of this bill is to set forth requirements for foster child clothing allowances.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.

WEST VIRGINIA LEGISLATURE

2026 REGULAR SESSION

Introduced

Senate Bill Number

BY ENTER SPONSORS HERE

[Enter References]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding a new section,
2 designated §49-2-815, relating to the establishment of a pilot program for the use of mobile
3 devices in child abuse and neglect investigations; setting forth effective date; setting forth
4 requirements for system; setting forth term of pilot program; and requiring reporting.

Be it enacted by the Legislature of West Virginia:

ARTICLE 2. STATE RESPONSIBILITIES FOR CHILDREN.

§49-2-815. Pilot program for the use of technology in child abuse and neglect investigations.

1 (a) Beginning October 1, 2026, the department shall implement a pilot project for two
2 counties requiring the use of mobile device including, but not limited to, a computer or tablet to
3 access the department's case management system in order to assist child protective service
4 workers to conduct child abuse and neglect investigations contemporaneously with the
5 investigation.

6 (b) The department shall determine which counties shall participate in the pilot program.

7 (c) The department shall develop policies to implement the pilot program which shall
8 include, at a minimum, the following:

9 (1) The mobile device shall have an operating system that is customized for child welfare
10 casework;

11 (2) The operating system on the mobile device shall allow a child protective services
12 worker to create a contemporaneous, digital record of all components of the investigation;

13 (3) The mobile device shall automatically and securely upload to the department's server
14 on a daily basis;

15 (4) The operating system used in the mobile device shall be interoperable with existing
16 department programs to allow relevant quality metrics to be extracted from the operating system
17 into standard reports to be analyzed for systemic improvement; and

18 (5) The mobile device shall be used on at least 70 percent of the cases in the pilot counties

19 during the time period being studied.

20 (d) The quality metrics shall be extracted on a monthly basis and analyzed by the secretary
21 and members of his or her staff charged with systemic improvement of the child welfare system.

22 (e) The pilot program shall terminate five years from the time the department fully
23 implements the pilot program in two counties.

24 (f) The department shall file annual reports beginning July 1, 2027, and July 1 annually
25 thereafter, with the Legislative Oversight Commission on Health and Human Resources
26 Accountability to provide a program update on the status of the pilot program, including metrics
27 on the use of the technology.

NOTE: The purpose of this bill is to require pilot project to evaluate the effectiveness of the usage of a mobile device interface for CPS investigations reporting is required.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.

WEST VIRGINIA LEGISLATURE

2026 REGULAR SESSION

Introduced

Senate Bill Number

BY ENTER SPONSORS HERE

[Enter References]

1 A BILL to amend the Code of West Virginia, as amended, 1931, by adding thereto a new section,
2 designated §49-2-815, relating to the temporary payment to a kinship parent of a subsidy
3 equal to that of a foster parent.

Be it enacted by the Legislature of West Virginia:

§49-2-815. Temporary increase in kinship payment subsidy.

1 (a) Temporary increase in subsidy amount — Notwithstanding any other provision to the
2 contrary, a kinship parent shall be eligible for a temporary increase in the subsidy amounts equal
3 to that of the foster parent subsidy if at the time of initial placement, the following circumstances:

4 (1) The kinship parent shall pass a background check, through the WV Cares Program,
5 which shall be submitted within five days of the ``initial date of placement;

6 (2) The kinship placement shall pass an initial home screening to identify and to correct
7 fatal life safety issues; and

8 (3) The kinship parent shall be assigned to a child placing agency to assist them with
9 obtaining certification as a foster parent and compliance with all other aspects of certification.

10 (b) Time frame for temporary increase — The temporary increase in subsidy amounts
11 shall become payable to the kinship parent within 30 days of the initial kinship placement and will
12 continue for a period of no more than six months at the temporary rate to allow the kinship parent
13 to become certified. If the kinship parent is unable or unwilling to become certified at the end of
14 the six-month period, the temporary increase will be removed and is no longer payable.

NOTE: The purpose of this bill is to require that a kinship parent be paid a subsidy equal to that of a foster parent in specified circumstances and set forth the timeframe for such payment.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.

WEST VIRGINIA LEGISLATURE

2026 REGULAR SESSION

Introduced

Senate Bill Number

BY ENTER SPONSORS HERE

[Enter References]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,
2 designated, §49-2-802b, relating to statewide prevention plan.

Be it enacted by the Legislature of West Virginia:

ARTICLE 2. STATE RESPONSIBILITIES FOR CHILDREN.

§49-2-802b. Requiring the development and implementation of statewide prevention plan.

1 (a) On or before January 1, 2027, the Department of Human Services (DoHS) shall
2 develop a statewide prevention plan, to provide prevention services to children under the age of
3 18 and their families which include kinship and foster parents, that is required to meet following
4 criteria:

5 (1) Services and programs shall be trauma-informed and shall meet evidence-based
6 criteria;

7 (2) Services shall be offered to who are at risk, including but not limited to the following:
8 children who have a child protective services or youth services safety plan, children with an open
9 child welfare or youth service case, or children otherwise identified as having a family with an
10 economic, concrete, or other preventative services need without an open child protective services
11 or youth services case or safety plan;

12 (3) Services shall be provided to pregnant and parenting youth;

13 (4) Services shall be provided to youth aging out of the foster care system for a period of
14 12 months after the date of their 21st birthday;

15 (5) Services shall be provided to youth post-adoption; and

16 (6) Services shall be provided to youth transitioning from one level of care in the care
17 continuum to the next level of care;

18 (b) DoHS shall ensure the prevention network of providers is reasonably adequate for
19 convenient access to services within a reasonable distance from a child and families' home
20 residence and shall not be comprised solely of telehealth providers but shall have a mix of

telehealth providers and physical locations in the service area for the child and family to access services;

(c) DoHS shall provide linkage to prevention services directly to youth and their families that need the services;

(d) DoHS shall track encounter level information and outcomes for such prevention services;

(e) DoHS shall report beginning on December 1, 2027, and annually thereafter, to the Legislative Oversight Commission on Health and Human Resources Accountability on the outcomes of the prevention services;

(1) The report shall include at a minimum, the total number of families served by prevention services on a county basis, the total state costs for prevention services by program, the total federal costs for prevention services by program, and the outcomes for such programs on a regional basis or county basis.

(2) DoHS shall report outcomes on a de-identified basis and shall assign a synthetic identifier to a provider in order to ensure that only system level reporting of outcomes is maintained.

(f) Services developed pursuant to this plan and other existing prevention plans shall be submitted to the Title IV-E Prevention Services Clearinghouse for review to see if the program qualifies for federal match;

(g) On or before July 1, 2028, DoHS shall file an amended state plan to maximize the capture of federal dollars to support prevention services under the Family First Prevention Services Act;

(h) DoHS shall implement that plan no later than February 1, 2027.

NOTE: The purpose of this bill is to require the Department of Human Services to develop and implement a prevention plan.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.

WEST VIRGINIA LEGISLATURE

2026 REGULAR SESSION

Introduced

House Bill Number

BY ENTER SPONSORS HERE

[Introduced ; referred
to the Committee on]

1 A BILL to amend and reenact §29-21-13a of the Code of West Virginia, 1931, as amended,
2 relating to increasing compensation for panel attorneys; also relating to requiring the
3 Public Defender Services to annually provide to the Legislative Oversight Commission on
4 Health and Human Resources, the Foster Care Ombudsman, and the West Virginia
5 Supreme Court of Appeals a report summarizing legal services that are being provided by
6 panel attorneys.

Be it enacted by the Legislature of West Virginia:

ARTICLE 21. PUBLIC DEFENDER SERVICES.

§29-21-13a. Compensation and expenses for panel attorneys.

1 (a) All panel attorneys shall maintain detailed and accurate records of the time expended
2 and expenses incurred on behalf of eligible clients, and which records are to be maintained in a
3 form that will enable the attorney to determine for any day the periods of time expended in tenths
4 of an hour on behalf of any eligible client and the total time expended in tenths of an hour on that
5 day on behalf of all eligible clients: *Provided*, That in no event may panel attorneys be required to
6 maintain or submit the actual start and finish times of work performed.

7 (b) Upon completion of each case, exclusive of appeal, panel attorneys shall submit to
8 Public Defender Services a voucher for services. Public Defender Services shall electronically
9 acknowledge the submission of a voucher. Claims for fees and expense reimbursements shall be
10 submitted to Public Defender Services on forms approved by the executive director. The
11 executive director shall establish guidelines for the submission of vouchers and claims for fees
12 and expense reimbursements under this section. Claims submitted more than 90 business days
13 after the last date of service shall be rejected unless, for good cause, the appointing court
14 authorizes in writing an extension.

15 (c) Public Defender Services shall review the voucher to determine if the time and expense
16 claims are reasonable, necessary, and valid. A voucher found to be correct shall be processed
17 and payment promptly directed within 45 business days of submission of the voucher.

(d)(1) If Public Defender Services rejects a voucher, the attorney submitting the voucher shall be notified electronically of the rejection and provided detailed reasons for the rejection within 30 business days of submission of the voucher. The attorney may resubmit the voucher accompanied by copies of his or her records supporting the voucher and certification from the appointing court that the services or expenses were performed or incurred, and were reasonable and necessary, within 15 business days of receipt of notification. The executive director shall make a final agency decision regarding the rejection of the voucher within 15 business days of receipt of the submitted records and certification. Under no circumstances may the executive director have the authority or require any panel attorney to submit privileged client information.

(2) If the final agency decision is to reject the voucher, Public Defender Services shall request review of the final agency decision by motion to the appointing court filed within 15 business days of notice of the final agency decision. After a hearing providing the attorney and Public Defender Services an opportunity to be heard, the appointing court shall have final authority to resolve the issue of payment and to order all remedies available under the West Virginia Rules of Civil Procedure.

(e) If Public Defender Services reduces the amount of compensation claimed or reimbursement requested, the attorney submitting the voucher shall be notified electronically of the reduction and detailed reasons for the reduction within 30 business days of the submission of the voucher. The attorney may:

(1) Agree with the reduction and certify his or her agreement electronically to Public Defender Services which shall then proceed to process payment; or

(2) Disagree with the reduction and request payment of the reduced amount while preserving the ability to contest the reduction;

(3) An attorney proceeding pursuant to this subsection shall inform Public Defender Services of his or her decision by electronic means within 15 business days of receipt of the notice

of reduction. If there is no communication from the attorney within 15 business days of receipt of the notice of reduction, then the reduction is deemed to be accepted by the attorney;

(4) The attorney may submit records and certification from the appointing court that the services or expenses reflected in the amount reduced were performed or incurred and were reasonable and necessary. The executive director shall then make a final agency decision regarding the reduction within 15 business days of receipt of the submitted records and certification. Under no circumstances may the executive director have the authority to require any panel attorney to submit privileged client information;

(5) If the attorney disagrees with the final agency decision, and the attorney and the executive director cannot reach an agreement regarding the reduction within 15 business days of the receipt of the notice of the final agency decision, Public Defender Services shall request review of the final agency decision by motion to the appointing court filed within 15 business days of notice of the final agency decision. After a hearing providing the attorney and Public Defender Services an opportunity to be heard, the appointing court shall have final authority to resolve the issue of payment, and to order all remedies available under the West Virginia Rules of Civil Procedure;

(6) If there is no communication from Public Defender Services within 30 business days of the submission of the voucher, the voucher is deemed to have been approved for payment without reduction.

(f) Notwithstanding any provisions of this code to the contrary, the executive director may employ in-house counsel to represent Public Defender Services in hearings held pursuant to this article.

(g) Except for the emergency rule-making provision set forth in §29-21-6(h) of this code, the provisions of the amendments to this article enacted during the 2019 regular session of the Legislature shall be effective July 1, 2019.

(h) Notwithstanding any other provision of this section to the contrary, Public Defender Services may pay by direct bill, prior to the completion of the case, litigation expenses incurred by attorneys appointed under this article.

(i) Notwithstanding any other provision of this section to the contrary, a panel attorney may be compensated for services rendered and reimbursed for expenses incurred prior to the completion of the case where: (1) More than six months have expired since the commencement of the panel attorney's representation in the case; and (2) no prior payment of attorney fees has been made to the panel attorney by Public Defender Services during the case. The executive director, in his or her discretion, may authorize periodic payments where ongoing representation extends beyond six months in duration. The amounts of any fees or expenses paid to the panel attorney on an interim basis, when combined with any amounts paid to the panel attorney at the conclusion of the case, shall not exceed the limitations on fees and expenses imposed by this section.

(j) In each case in which a panel attorney provides legal representation under this article, and in each appeal after conviction in circuit court, the panel attorney shall be compensated at the following ~~rates~~ rate for actual and necessary time expended for services performed and expenses incurred subsequent to the effective date of this article.

~~(1) For attorney's work performed out of court, compensation shall be at the rate of \$60~~
~~\$70 per hour.~~

~~Out of court work includes, but is not limited to, travel, interviews of clients or witnesses, preparation of pleadings, and prehearing or pretrial research;~~

~~(2) For attorney's work performed in court, compensation shall be at the rate of \$80~~ \$90
~~per hour.~~

~~In court work includes, but is not limited to, all time spent awaiting hearing or trial before a judge, magistrate, special master, or other judicial officer;~~

(1) All legal services performed by a panel attorney, all time spent awaiting hearing or trial before a judicial officer, and travel will be compensated at a rate of not less than \$100 per hour. The West Virginia Public Defender Services will annually publish on their website, no later than June 15, the rate of compensation for the next fiscal year;

~~(3)~~ (2) Compensation for legal services performed for a panel attorney by a paralegal out-of-court is to be calculated using a rate of not less than \$20 per hour and no such compensation is to be paid for in-court services performed for a panel attorney by a paralegal absent prior approval of the circuit court before whom the panel attorney is appearing and subject to maximum reimbursement amounts set by agency rule. The West Virginia Public Defender Services will annually publish on their website, no later than June 15, the rate of compensation for the next fiscal year;

~~(4)~~ (3) The maximum amount of compensation for ~~out-of-court and in-court~~ work under this subsection is as follows: For proceedings of any kind involving felonies for which a penalty of life imprisonment may be imposed, the amount as the court may approve; for all other eligible proceedings, \$4,500 unless the court, for good cause shown, approves payment of a larger sum.

(k) Actual and necessary expenses incurred in providing legal representation for proceedings of any kind involving felonies for which a penalty of life imprisonment may be imposed, including, but not limited to, expenses for travel, transcripts, salaried or contracted investigative services, and expert witnesses, shall be reimbursed in an amount as the court may approve. For all other eligible proceedings, actual and necessary expenses incurred in providing legal representation, including, but not limited to, expenses for travel, transcripts, salaried or contracted investigative services and expert witnesses, shall be reimbursed to a maximum of \$2,500 unless the court, for good cause shown, approves reimbursement of a larger sum.

(l) Expense vouchers shall specifically set forth the nature, amount, and purpose of expenses incurred and shall provide receipts, invoices, or other documentation required by the executive director and the State Auditor as follows:

(1) Reimbursement of expenses for production of transcripts of proceedings reported by a court reporter is limited to the cost per original page and per copy page as set forth in §51-7-4 of this code;

(2) There may be no reimbursement of expenses for or production of a transcript of a preliminary hearing before a magistrate or juvenile referee, or of a magistrate court trial, where the hearing or trial has also been recorded electronically in accordance with the provisions of §50-5-8 of this code or court rule;

(3) Reimbursement of the expense of an appearance fee for a court reporter who reports a proceeding other than one described in subdivision (2) of this subsection is limited to \$25. Where a transcript of a proceeding is produced, there may be no reimbursement for the expense of any appearance fee;

(4) Except for the appearance fees provided in this subsection, there may be no reimbursement for hourly court reporters' fees or fees for other time expended by the court reporter, either at the proceeding or traveling to or from the proceeding;

(5) Reimbursement of the cost of transcription of tapes electronically recorded during preliminary hearings or magistrate court trials is limited to \$1 per page;

(6) Reimbursement for any travel expense incurred in an eligible proceeding is limited to the rates for the reimbursement of travel expenses established by rules promulgated by the Governor pursuant to the provisions of ~~§12-8-14~~ §12-3-11 of this code and administered by the Secretary of the Department of Administration pursuant to the provisions of §5A-3-48 of this code;

(7) Reimbursement for investigative services is limited to a rate of not less than \$30 per hour for work performed by an investigator. The West Virginia Public Defender Services will annually publish on their website, no later than June 15, the rate of compensation for the next fiscal year.

(m) For purposes of compensation under this section, an appeal from magistrate court to circuit court, an appeal from a final order of the circuit court, or a proceeding seeking an

extraordinary remedy made to the Supreme Court of Appeals shall be considered a separate case.

(n) Vouchers submitted under this section shall specifically set forth the nature of the service rendered, the stage of proceeding or type of hearing involved, the date and place the service was rendered, and the amount of time expended in each instance. All time claimed on the vouchers shall be itemized to the nearest tenth of an hour. If the charge against the eligible client for which services were rendered is one of several charges involving multiple warrants or indictments, the voucher shall indicate the fact and sufficiently identify the several charges so as to enable Public Defender Services to avoid a duplication of compensation for services rendered. The executive director shall refuse to requisition payment for any voucher which is not in conformity with the recordkeeping, compensation, or other provisions of this article or the voucher guidelines established issued pursuant to this article and in such circumstance shall return the voucher to the court or to the service provider for further review or correction.

(o) Vouchers submitted under this section shall be reimbursed within 90 days of receipt. Reimbursements after 90 days shall bear interest from the 91st day at the legal rate in effect for the calendar year in which payment is due.

(p) Vouchers submitted for fees and expenses involving child abuse and neglect cases shall be processed for payment before processing vouchers submitted for all other cases.

(q) Upon a dismissal of or a finding of not guilty concerning a criminal charge, should the charge or charges for which the indigent defendant was afforded counsel qualify for an expungement of charges under §61-11-25 of this code, the defendant shall be afforded continued representation upon the terms specified in this section. The Panel Attorney shall include the services performed by panel attorneys in regard to an expungement on the same voucher or a subsequent voucher submitted concerning the same case number as the one submitted to Public Defender Services for the underlying criminal charge or charges. The maximum amount of compensation for ~~out-of-court and in-court~~ work under this section shall be limited to \$1,000 for

expungement services in addition to the limits imposed on the underlying criminal charge or charges, unless the court, for good cause shown, approves payment of a larger sum. The actual and necessary expenses incurred in providing legal representation for expungement proceedings under this section shall be reimbursed to a maximum of \$500 unless the court, for good cause shown, approves reimbursement of a larger sum.

(r) Beginning on December 1, 2026, Public Defender Services shall annually provide to the Legislative Oversight Commission on Health and Human Resources, the Foster Care Ombudsman, and the West Virginia Supreme Court of Appeals a report summarizing legal services that are being provided by the submission of a voucher by panel attorneys serving as guardians ad litem in the courts the state. Each agency report shall contain a summary of the following legal services being provided by panel attorneys serving as guardians ad litem:

(1) The average per case number of multidisciplinary team meetings attended by appointed guardians ad litem from the initial appointment date until permanency for the child has been achieved as reflected by court order;

(2) The average amount of cases an appointed panel attorney served as a guardian ad litem;

(3) The average length of time that a child abuse or neglect proceeding lasts from the date of the initial appointment of a panel guardian ad litem until an order is entered that finds that permanency for the child has been achieved;

(4) The average number of in-person visits or conferences that appointed guardians ad litem have with their clients, or when appropriate the client's parents or caretaker, including the aggregate number of cases that appointed guardians ad litem have an in-person visit, or conference, with their client, or when appropriate a client's parents or caretaker, and the aggregate number of cases that guardians ad litem did not have an in-person visit or conference with their client, or client's parents or caretaker: *Provided*, That nothing in this subsection will

196 require the disclosure by any guardian ad litem of any information protected by attorney client
197 privilege.

198 (5) The average number of hours itemized and billed in each case by an appointed panel
199 attorney serving as guardian ad litem from the initial appointment date until permanency for the
200 child has been achieved as reflected by court order;

201 (6) The average number of hours itemized and billed in each case as travel time by an
202 appointed panel attorney serving as guardian ad litem from the initial appointment date until
203 permanency for the child has been achieved as reflected by court order.

NOTE: The purpose of this bill is to increase compensation for panel attorneys of the Public Defender Services; and requiring Public Defender Services to annually provide a report to certain state agencies summarizing legal services that are being provided by the submission of a voucher by panel attorneys serving as guardians ad litem in state courts.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.

WEST VIRGINIA LEGISLATURE

2026 REGULAR SESSION

Introduced

House Bill Number

BY ENTER SPONSORS HERE

[Introduced ; referred
to the Committee on the]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,
2 designated §49-2-125, relating to the creation of a special revenue account to expand in-
3 state residential treatment capacity for children; specifying the purposes of the fund;
4 establishing funding sources; authorizing disbursements; and providing for administration.

Be it enacted by the Legislature of West Virginia:

ARTICLE 2. STATE RESPONSIBILITIES FOR CHILD WELFARE.

§49-2-125. Commission to Study Residential Placement of Children; findings; requirements; reports; recommendations; fund.

1 (a) The Legislature finds that the state's current system of serving children and families in
2 need of or at risk of needing social, emotional and behavioral health services is fragmented. The
3 existing categorical structure of government programs and their funding streams discourages
4 collaboration, resulting in duplication of efforts and a waste of limited resources. Children are
5 usually involved in multiple child-serving systems, including child welfare, juvenile justice and
6 special education. More than ten percent of children presently in care are presently in out-of-state
7 placements. Earlier efforts at reform have focused on quick fixes for individual components of the
8 system at the expense of the whole. It is the purpose of this section to establish a mechanism to
9 achieve systemic reform by which all of the state's child-serving agencies involved in the
10 residential placement of at-risk youth jointly and continually study and improve upon this system
11 and make recommendations to their respective agencies and to the Legislature regarding funding
12 and statutory, regulatory and policy changes. It is further the Legislature's intent to build upon
13 these recommendations to establish an integrated system of care for at-risk youth and families
14 that makes prudent and cost-effective use of limited state resources by drawing upon the
15 experience of successful models and best practices in this and other jurisdictions, which focuses
16 on delivering services in the least restrictive setting appropriate to the needs of the child, and
17 which produces better outcomes for children, families and the state.

18 (b) There is created within the Department of Human Services the Commission to Study

the Residential Placement of Children. The commission consists of the Secretary of the Department of Human Services, the Commissioner of the Bureau for Children and Families, the Commissioner for the Bureau for Behavioral Health and Health Facilities, the Commissioner for the Bureau for Medical Services, the State Superintendent of Schools, a representative of local educational agencies, the Director of the Office of Institutional Educational Programs, the Director of the Office of Special Education Programs and Assurance, the Director of the Division of Juvenile Services and the Executive Director of the Prosecuting Attorney's Institute. At the discretion of the West Virginia Supreme Court of Appeals, circuit and family court judges and other court personnel, including the Administrator of the Supreme Court of Appeals and the Director of the Juvenile Probation Services Division, may serve on the commission. These statutory members may further designate additional persons in their respective offices who may attend the meetings of the commission if they are the administrative head of the office or division whose functions necessitate their inclusion in this process. In its deliberations, the commission shall also consult and solicit input from families and service providers.

(c) The Secretary of the Department of Human Services shall serve as chair of the commission, which shall meet on a quarterly basis at the call of the chair.

(d) At a minimum, the commission shall study:

(1) The current practices of placing children out-of-home and into in-residential placements, with special emphasis on out-of-state placements;

(2) The adequacy, capacity, availability and utilization of existing in-state facilities to serve the needs of children requiring residential placements;

(3) Strategies and methods to reduce the number of children who must be placed in out-of-state facilities and to return children from existing out-of-state placements, initially targeting older youth who have been adjudicated delinquent;

(4) Staffing, facilitation and oversight of multidisciplinary treatment planning teams;

(5) The availability of and investment in community-based, less restrictive and less costly

alternatives to residential placements;

(6) Ways in which up-to-date information about in-state placement availability may be made readily accessible to state agency and court personnel, including an interactive secure web site;

(7) Strategies and methods to promote and sustain cooperation and collaboration between the courts, state and local agencies, families and service providers, including the use of inter-agency memoranda of understanding, pooled funding arrangements and sharing of information and staff resources;

(8) The advisability of including no-refusal clauses in contracts with in-state providers for placement of children whose treatment needs match the level of licensure held by the provider;

(9) Identification of in-state service gaps and the feasibility of developing services to fill those gaps, including funding;

(10) Identification of fiscal, statutory and regulatory barriers to developing needed services in-state in a timely and responsive way;

(11) Ways to promote and protect the rights and participation of parents, foster parents and children involved in out-of-home care;

(12) Ways to certify out-of-state providers to ensure that children who must be placed out-of-state receive high quality services consistent with this state's standards of licensure and rules of operation; and

(13) Any other ancillary issue relative to foster care placement.

(e) The commission shall report annually to the Legislative Oversight Commission on Health and Human Resources Accountability its conclusions and recommendations, including an implementation plan whereby:

(1) Out-of-state placements shall be reduced by at least ten percent per year and by at least fifty percent within three years;

(2) Child-serving agencies shall develop joint operating and funding proposals to serve the needs of children and families that cross their jurisdictional boundaries in a more seamless way;

(3) Steps shall be taken to obtain all necessary federal plan waivers or amendments in order for agencies to work collaboratively while maximizing the availability of federal funds;

(4) Agencies shall enter into memoranda of understanding to assume joint responsibilities;

(5) System of care components and cooperative relationships shall be incrementally established at the local, state and regional levels, with links to existing resources, such as family resource networks and regional summits, wherever possible; and

(6) Recommendations for changes in fiscal, statutory and regulatory provisions are included for legislative action.

(f) There is created in the State Treasury a separate special revenue account, which shall be an interest-bearing account, to be known as the "Residential Treatment Capacity Expansion Fund." The special revenue account shall consist of appropriations made by the Legislature, recoveries or reimbursements relating to residential treatment services for children, income from the investment of moneys held in the special revenue account, and all other sums available for deposit to the special revenue account from any source, public or private. No expenditures for purposes of this section are authorized from collections except in accordance with the provisions of article three, chapter twelve of this code and upon fulfillment of the provisions set forth in article two, chapter five-a of this code. No expenses incurred under this section shall be a charge against the General Revenue Fund of the state.

(g) Moneys in the special revenue account shall be appropriated to the Department of Human Services and used exclusively, in accordance with appropriations made by the Legislature, to pay costs, fees, and expenses incurred, or to be incurred, for the following purposes:

(1) The recruitment, incentive support, and development of residential treatment providers

97 seeking to establish new or expanded operations within the state;

98 (2) The acquisition, renovation, construction, or expansion of facilities used to provide
99 residential treatment services to children within the state;

100 (3) Startup, workforce development, training, or technical support necessary for the
101 establishment or expansion of in-state residential treatment programs, including specialized
102 treatment models;

103 (4) The assessment, planning, transportation, or transition-related activities necessary to
104 return West Virginia children from out-of-state residential placements into appropriate in-state
105 treatment settings;

106 (5) The development, implementation, administration, and management of treatment
107 models, quality standards, oversight systems, and training materials pertaining to residential
108 treatment programs and facilities;

109 (6) All other related residential treatment capacity-building activities determined necessary
110 by the Secretary of the Department of Human Services to increase in-state placement availability
111 and reduce reliance on out-of-state providers; and

112 (7) All costs incurred in the administration of the special revenue account.

113 (h) Any balance remaining in the special revenue account at the end of any state fiscal
114 year shall not revert to the General Revenue Fund but shall remain in the special revenue account
115 and shall be used solely in a manner consistent with the purposes of this section.

116 (i) Disbursements from the special revenue account shall be authorized by the Secretary
117 of the Department of Human Services or his or her designee. Payment from the special revenue
118 account may be made for any expense directly related to the development, expansion, or support
119 of residential treatment capacity within the state, including any such expense incurred prior to the
120 effective date of this section, if such expense is consistent with the purposes of this section.

NOTE: The purpose of this bill is to create a special revenue account, the Residential

Treatment Capacity Expansion Fund, to support the recruitment, development, and expansion of in-state residential treatment providers for children. The fund may be used for provider incentives, facility development, transition services for children currently placed out of state, and other activities that increase West Virginia's residential treatment capacity.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.

WEST VIRGINIA LEGISLATURE

2026 REGULAR SESSION

Introduced

House Bill Number

BY ENTER SPONSORS HERE

[Introduced ; referred
to the Committee on the]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,
2 designated §49-2-111, relating to requiring the Department of Human Services to
3 establish a pilot program to contract for supplemental caseworker aide services for the
4 Bureau of Social Services.

Be it enacted by the Legislature of West Virginia:

ARTICLE 2. STATE RESPONSIBILITIES FOR THE PROTECTION AND CARE OF CHILDREN.

§49-2-111. Caseworker Services Pilot Program.

1 (a) (1) The Department of Human Services shall, within 90 days of the effective date of
2 this section, establish a pilot program through which it shall enter into a contract with one or more
3 qualified private entities to provide caseworker aide services to supplement existing departmental
4 staff within the Bureau of Social Services with administrative support services using a human
5 services technology platform to allow departmental staff more time for personal interactions with
6 children and families served by the department.

7 (2) Caseworker aides retained under the contract shall meet substantially equivalent
8 education, experience, training, and background check requirements as departmental
9 caseworkers and caseworker aides.

10 (3) The department shall maintain supervisory and decision-making authority over all
11 cases, and contracted caseworker aide personnel shall operate under departmental policies and
12 oversight.

13 (b) The department shall deploy contracted caseworker aide services in one or more
14 districts comprised of no more than three counties in the aggregate meeting criteria established
15 by rule or policy, including, but not limited to:

16 (1) Average caseloads exceeding state or federal guidelines;

17 (2) Persistent vacancy rates among child welfare positions; or

18 (3) A disproportionate percentage of children from that county placed in out-of-state foster
19 care or residential facilities.

20 (c) (1) The pilot program shall operate for fifteen months following the execution of the
21 contract allowing for a three-month onboarding process to establish departmental priorities and
22 workflow processes and a one-year operational period.

23 (2) Prior to the conclusion of the pilot program, the department shall submit a written report
24 to the Joint Committee on Health detailing the pilot's implementation, performance outcomes,
25 costs, and recommendations for continuation or expansion.

26 (3) The department may, at its discretion, continue or expand the pilot program statewide
27 if the evaluation demonstrates improved case management capacity or outcomes.

NOTE: The purpose of this bill is to establish a pilot program to support caseworker administrative tasks with technology and human caseworker aide services to increase the number, frequency and timeliness of caseworker interactions with children and families served by caseworkers within the Department of Human Services.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.

WEST VIRGINIA LEGISLATURE

2026 REGULAR SESSION

Introduced

House Bill Number

BY SENATOR DEEDS

[Introduced ; referred

to the Committee on]

1 A BILL to amend and reenact §15-2-15 of the Code of West Virginia, 1931, as amended, relating
2 to the Child Abuse and Neglect Investigations Unit; expanding the number of members in
3 the unit; expanding the number of regional members to assist CPS; establishing offices
4 for the unit in each State Police District; providing parameters for supervision of the unit;
5 providing retired members of the State Police the ability to be part of the unit; and
6 establishing requirements to be followed when reemploying a retired State Police officer.

Be it enacted by the Legislature of West Virginia:

CHAPTER 15. PUBLIC SAFETY.

ARTICLE 2. WEST VIRGINIA STATE POLICE.

§15-2-15. State Police Child Abuse and Neglect Investigations Unit.

1 (a) The superintendent shall maintain a special unit of the State Police called the Child
2 Abuse and Neglect Investigations Unit. The purpose of the unit is to focus on identifying,
3 investigating, and prosecuting criminal child abuse and neglect cases, in coordination with Child
4 Protective Services, established pursuant to §49-2-802 of this code. The unit shall assist other
5 State Police members with child abuse or neglect investigations as well as the Division of Child
6 Protective Services. The unit may provide training, technical expertise, and coordination of
7 services for other law-enforcement agencies, Child Protective Services caseworkers, prosecuting
8 attorneys, and multidisciplinary teams established pursuant to the provisions of §49-4-402 of this
9 code, to identify, investigate, report, and prosecute criminal child abuse and criminal child neglect
10 cases. However, nothing in this section may be construed to mean that the unit will assume the
11 duties or investigations of other State Police members or other law-enforcement officers.

(b) The unit shall consist of, at a minimum, ~~six~~ 21 retired members of the West Virginia State Police with each of the 21 Districts of the West Virginia State Police contributing at least one retired member to this unit. The superintendent shall assign a unit director, ~~and five regional~~ The members of the unit shall, to be dedicated and trained to assist county Child Protective Services Offices and caseworkers in investigating and coordinating with other law-enforcement personnel, cases of suspected child abuse or neglect. Cases to be investigated include allegations received pursuant to §49-2-803 of this code, and any other credible child abuse or neglect allegations.

(c) The unit director's duties include:

(1) Overseeing State Police members assigned to the unit;

(2) Coordinating activities of the unit with Child Protection Services;

(3) Assisting Child Protective Services in developing and refining protocols for improving identification and prosecution of suspected criminal acts of child abuse or neglect; and

(4) Assuring that all other directives and responsibilities of the unit are fulfilled.

(d) The unit shall maintain a statewide statistical index on child abuse and neglect convictions resulting from convictions for violations of §61-8D-2, §61-8D-2a, §61-8D-3, §61-8D-3a, §61-8D-4 and §61-8D-4a of this code, to monitor the timely and proper investigation and disposition of child abuse or neglect cases. The statistical data index maintained by the unit shall not contain information of a specific nature that would identify individual cases or persons.

(e) The unit shall maintain at least one investigative office in each West Virginia State Police District, located within a Department of Human Services office that provides social services for that district.

(f) Investigators employed by the unit shall be supervised by four members of the West Virginia State Police, with preference given to members who have prior experience with the Internet Crimes Against Children (ICAC) Task Force or substantial experience in investigating allegations of child abuse and neglect.

~~(e)~~ (g) On or before December 31, of each year, the unit director shall submit an annual report to the Joint Committee on Government and Finance. The annual report is to include the statistical index required under the provisions of subsection (d) of this section, and may include recommendations for statutory or program reforms that will assist the unit and further promote the goals of the unit. The report may not contain information of a specific nature that would identify individual cases or persons.

~~(f)~~ (h) Every state law-enforcement agency of this state shall periodically provide statistical information regarding child abuse and neglect cases investigated and prosecuted by that law-enforcement agency to the unit.

~~(g)~~ (i) The superintendent may propose rules for legislative approval or procedural rules as necessary to effectuate the provisions of this section in accordance with the provisions of §29A-3-1 et seq. of this code. The superintendent shall provide forms to law-enforcement agencies, circuit clerks, and parole officers to facilitate submission of appropriate information necessary to prepare the statistical reports required by this section.

~~(h)~~ (j) There is continued a special account in the state Treasury, into which shall be deposited any gifts, grants or donations made to the unit, and any other funds directed to be deposited into the account by appropriation of the Legislature, and to be expended for the purposes of this section pursuant to appropriation of the Legislature.

(k) Notwithstanding any provision of this code to the contrary, any honorably retired member of the State Police may, at the discretion of the superintendent, may be considered for a position with the Child Abuse and Neglect Investigations Unit and:

(1) No pension rights of any kind shall accrue or attach pursuant to reemployment under this section:

(2) Notwithstanding any provision of this code to the contrary, any honorably retired member of the State Police who qualifies for reemployment pursuant to the provisions of this section and who is not currently certified as a law-enforcement officer under §30-29-5 of this code

may be deemed to have met the entry level law-enforcement recertification requirements of 149 CSR 215, Section 15.3, upon successful completion of a course of instruction prescribed by the superintendent. Such course of instruction shall include at a minimum the following subject areas: Firearms training and certification, defensive driving, mechanics of arrest, law of arrest search and seizure, West Virginia motor vehicle law, criminal law update, and domestic crimes;

(3) Any member reemployed pursuant to the provisions of this section shall hold the nonsupervisory rank of trooper and shall receive the same compensation as a regularly enlisted member at the rank of corporal. For purposes of determining length of service pursuant to §15-2-5 of this code, any member reemployed pursuant to this section shall not receive credit for all years of service rendered after reemployment. Any member reemployed pursuant to this section shall exercise the same authority as a regularly enlisted member of the State Police, shall be subject to the same oath, shall execute the same bond, shall exercise the same powers and shall be subject to the same limitations as a regularly enlisted member of the State Police;

(4) Any member reemployed pursuant to the provisions of this section shall not be eligible for promotion or reclassification of any type, nor shall he or she be eligible for appointment to temporary rank pursuant to the provisions of section four of this article;

(5) Any retired member applying for reemployment under this section shall be required to pass such mental and physical examinations, and meet such other requirements as may be provided for in rules promulgated by the superintendent pursuant to this section;

(6) Notwithstanding the provisions of section ten of this article, the superintendent may make provisions for coverage of personnel employed pursuant to the provisions of §15-2-10(e);

(7) Any individual reemployed pursuant to this section is not eligible to contribute to any pension plan administered by the Consolidated Public Retirement Board, nor may he or she establish or accrue any new pension eligibility pursuant to such reemployment;

(8) Notwithstanding any provision of this code to the contrary, any member reemployed pursuant to this section shall serve at the will and pleasure of the superintendent, but retain the

90 right to a grievance hearing pursuant to the provisions of §15-2-6 of this code and West Virginia
91 State Police grievance procedure, 81 CSR 8. Any member reemployed pursuant to this section
92 shall not be included in the classified service of the civil service system; and
93 (9) Notwithstanding any provision of this code to the contrary, compensation paid to any
94 member reemployed pursuant to this section shall be in addition to any retirement payments or
95 pension benefits which he or she is already entitled to receive under §15-2-27 of this code.

NOTE: The purpose of this bill is to create an expanded WVSP Unit specifically utilized for investigation of child abuse and neglect cases.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.

1 A BILL to amend the Code of West Virginia, 1931, by adding thereto a new section designated,
2 §49-2-131, relating to monthly status meeting of county entities.

Be it enacted by the Legislature of West Virginia:

ARTICLE 2. STATE RESPONSIBILITIES FOR CHILD WELFARE.

§49-2-131. County Bureau of Social Services monthly status meetings; participants; trainings; reports.

1 (a) (1) The Legislature finds that timely identification of issues affecting child welfare,
2 staffing, caseloads, and service delivery within each county Bureau of Social Services office is
3 essential to protecting the health and safety of children.

4 (2) The Legislature further finds that improved communication among state, county, law-
5 enforcement, education, health-care, and community partners enhances child protection
6 outcomes and ensures accountability.

7 (3) Accordingly, it is the intent of the Legislature to establish a structured monthly forum in
8 each county to review the status of the Bureau of Social Services, address inter-agency concerns,
9 and improve coordinated responses to child abuse and neglect.

10 (b) (1) Each county office of the Bureau of Social Services shall convene a monthly
11 meeting to review the operational status of the agency in that county.

12 (2) The meeting shall be chaired by the county Bureau of Social Services supervisor or
13 his or her designee.

14 (3) The Department of Human Services shall ensure compliance and may establish
15 standardized agendas, reporting templates, and procedures.

16 (c) The following officials or their designees shall be invited and encouraged to participate
17 in each monthly meeting:

18 (1) The Department of Human Services regional director or division representative;

19 (2) The county prosecuting attorney;

20 (3) The county sheriff;

(4) The county superintendent of schools;

(5) Members of the Legislature whose districts include any portion of the county;

(6) Members of the county commission;

(7) A representative of a local hospital or health-care facility;

(8) Representatives of local nonprofit organizations serving children and families; and

(9) Any other stakeholder determined appropriate by the Bureau of Social Services.

(d) The monthly meeting shall include, but is not limited to, review and discussion of:

(1) Current staffing levels, vacancies, and caseload trends;

(2) County child welfare metrics, including response times, open cases, and placement data;

(3) Cross-agency coordination issues, including law enforcement referrals, school reporting, and court interactions;

(4) Barriers to service delivery such as transportation, treatment access, provider shortages, or court delays;

(5) Status of children placed out of county or out of state;

(6) Emergent cases or systemic issues requiring coordinated intervention; and

(7) Any matters required by rule of the Department of Human Services.

(e) (1) The Department of Human Services shall ensure that at least annual training is provided in each county on:

(A) Standards for substantiation of child abuse and neglect, including evidentiary requirements;

(B) Mandatory reporting obligations; and

(C) Best practices for inter-agency coordination and protection of children.

(2) The Department may provide such training directly or through approved providers, and may deliver training in person or through virtual formats.

(3) Counties may hold additional topic-specific trainings during monthly meetings.

- 47 (f) (1) Each county Bureau of Social Services office shall prepare a brief summary report
48 of each monthly meeting, to include:
- 49 (A) An attendance list;
50 (B) Key issues discussed;
51 (C) Identified action items; and
52 (D) Follow-up responsibilities.

NOTE: The purpose of this bill is to establish a structured monthly forum in each county to review the status of the Bureau of Social Services, address inter-agency concerns, and improve coordinated responses to child abuse and neglect

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.