

WEST VIRGINIA LEGISLATURE

2022 REGULAR SESSION

Introduced

House Bill 4696

BY DELEGATES FLEISCHAUER, KESSINGER, STEELE,
PACK, GARCIA, WALKER, WILLIAMS, HANSEN, STATLER,
BROWN, AND LOVEYOY

[Introduced February 15, 2022; Referred to the
Committee on Health and Human Resources then the
Judiciary]

1 A BILL to amend and reenact §49-2-803 and §49-2-812 of the Code of West Virginia, 1931, as
2 amended, all relating to reporting of suspected abuse and neglect; providing notice to the
3 child's parent or guardian under certain circumstances; requiring annual statement of
4 reporting obligations to be provided to, and acknowledged by, public and private school
5 employees; establishing the duty of a prosecutor to notify a licensing or regulatory board
6 of a licensee's failure to notify; and making it professional negligence and a departure from
7 professional conduct for professional licensees and registrants to fail to report suspected
8 abuse or neglect.

Be it enacted by the Legislature of West Virginia:

ARTICLE 2. STATE RESPONSIBILITIES FOR CHILDREN.

§49-2-803. Persons mandated to report suspected abuse and neglect; requirements.

1 (a) Any medical, dental, or mental health professional, Christian Science practitioner,
2 religious healer, school teacher or other school personnel, social service worker, child care or
3 foster care worker, emergency medical services personnel, peace officer or law-enforcement
4 official, humane officer, member of the clergy, circuit court judge, family court judge, employee of
5 the Division of Juvenile Services, magistrate, youth camp administrator or counselor, employee,
6 coach or volunteer of an entity that provides organized activities for children, or commercial film
7 or photographic print processor who has reasonable cause to suspect that a child is neglected or
8 abused, including sexual abuse or sexual assault, or observes the child being subjected to
9 conditions that are likely to result in abuse or neglect shall immediately, and not more than 24
10 hours after suspecting this abuse or neglect, report the circumstances to the Department of Health
11 and Human Resources. If the report does not assert that a family member or guardian is the basis
12 of the report, the Department of Health and Human Resources shall notify a parent or guardian
13 of the existence of the report. In any case where the reporter believes that the child suffered
14 serious physical abuse or sexual abuse or sexual assault, the reporter shall also immediately
15 report to the State Police and any law-enforcement agency having jurisdiction to investigate the

16 complaint. Any person required to report under this article who is a member of the staff or
17 volunteer of a public or private institution, school, entity that provides organized activities for
18 children, facility, or agency shall also immediately notify the person in charge of the institution,
19 school, entity that provides organized activities for children, facility, or agency, or a designated
20 agent thereof, who may supplement the report or cause an additional report to be made: Provided,
21 That notifying a person in charge, supervisor, or superior does not exempt a person from his or
22 her mandate to report suspected abuse or neglect.

23 (b) County boards of education and private school administrators shall annually provide
24 all employees with a written statement setting forth the requirements contained in this section and
25 shall obtain and preserve a signed acknowledgment from school employees that they have
26 received and understand the reporting requirement.

27 (c) Nothing in this article is intended to prevent individuals from reporting suspected abuse
28 or neglect on their own behalf. In addition to those persons and officials specifically required to
29 report situations involving suspected abuse or neglect of children, any other person may make a
30 report if that person has reasonable cause to suspect that a child has been abused or neglected
31 in a home or institution or observes the child being subjected to conditions or circumstances that
32 would reasonably result in abuse or neglect.

33 (d) The provisions of this section are not applicable to persons under the age of 18.

§49-2-812. Failure to report; penalty.

1 (a) Any person, official or institution required by this article to report a case involving a
2 child known or suspected to be abused or neglected, or required by §49-2-809 of this code to
3 forward a copy of a report of serious injury, who knowingly fails to do so or knowingly prevents
4 another person acting reasonably from doing so, is guilty of a misdemeanor and, upon conviction,
5 shall be confined in jail not more than 90 days or fined not more than \$5,000, or both fined and
6 confined.

7 (b) Any person, official or institution required by this article to report a case involving a

8 child known or suspected to be sexually assaulted or sexually abused, or student known or
9 suspected to have been a victim of any nonconsensual sexual contact, sexual intercourse or
10 sexual intrusion on school premises, who knowingly fails to do so or knowingly prevents another
11 person acting reasonably from doing so, is guilty of a misdemeanor and, upon conviction thereof,
12 shall be confined in jail not more than six months or fined not more than \$10,000, or both.

13 (c) When a prosecuting attorney or law-enforcement officer becomes aware that any
14 person has failed to make a timely report when required by §49-2-803 of this code and the person
15 holds a professional license, registration, or professional teaching certificate issued by the state,
16 the prosecuting attorney or law-enforcement officer shall forward that information to the licensing
17 board or authority that has issued the license or registration to that person or, if the person is a
18 teacher, to the State Superintendent of Schools. If the person holds a license or registration from
19 a licensing board or authority, that board or authority shall then initiate disciplinary proceedings
20 pursuant to §30-1-8 of this code to pursue suspension or revocation of the license or registration.
21 If the person holds a professional teaching certificate, then the State Superintendent of Schools
22 shall initiate proceedings pursuant to §18A-3-6 of this code to pursue suspension or revocation
23 of the teaching certificate. For purposes of this subsection, any applicable period of limitation for
24 filing or initiation of the disciplinary proceeding shall be calculated from the date that the person's
25 failure is discovered by the prosecuting attorney or law-enforcement officer.

NOTE: The purpose of this bill is to tighten requirements for persons mandated to report abuse and neglect to the West Virginia Department of Human Services or the State police; requiring county boards of education to annually notify school personnel of their responsibilities; and making it professional negligence and a willful departure from professional or conduct.

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