

WEST VIRGINIA LEGISLATURE

2025 REGULAR SESSION

ENGROSSED

Committee Substitute

for

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for

House Bill 2047

By Delegate Burkhammer

[Reported February 21, 2025 from the Committee on
the Judiciary]

1 A BILL to amend and reenact §49-2-128 of the Code of West Virginia, 1931, as amended, relating
2 to prohibiting cameras in bedrooms and bathrooms of foster homes; exemptions;
3 prohibitions.

Be it enacted by the Legislature of West Virginia:

ARTICLE 2. STATE RESPONSIBILITIES FOR CHILDREN.

**§49-2-128. Reasonable and prudent foster parent standard; prohibiting cameras in
bedrooms and bathrooms of foster children; exemptions; prohibition.**

1 (a) As used in this section, the following terms have the following meanings:

2 "Age appropriate" means activities or items that are generally accepted as suitable for
3 children of the same chronological age or level of maturity. Age appropriateness is based on the
4 development of cognitive, emotional, physical, and behavioral capacity that is typical for an age or
5 age group.

6 "Caregiver" means a foster parent, kinship parent, or a designated official in a residential
7 treatment facility.

8 "Reasonable and prudent foster parent standard" means the standard characterized
9 parental decisions that maintain the child's health, safety, and best interests, while at the same
10 time encouraging the child's emotional and developmental growth, that a caregiver shall use when
11 determining whether to allow a child to participate in extracurricular, enrichment, and social
12 activities.

13 (b) Each child who comes into care under this chapter is entitled to participate in age
14 appropriate extracurricular, enrichment, and social activities.

15 (c) Caregivers shall use a reasonable and prudent foster parent standard in determining
16 whether to give permission for a child in out of home care to participate in extracurricular,
17 enrichment, and social activities. When using the reasonable and prudent foster parent standard,
18 the caregiver shall consider:

(1) The child's age, maturity, and developmental level, to maintain the overall health and safety of the child;

(2) The potential risk factors and the appropriateness of the extracurricular, enrichment, and social activity;

(3) The best interest of the child based on information known to the caregiver;

(4) The importance of encouraging the child's emotional and developmental growth;

(5) The importance of providing the child with the most family like living experience possible; and

(6) The behavioral history of the child and the child's ability to safely participate in the proposed activity, as with any other child.

(d) Child placing agencies and residential treatment facilities shall have policies consistent with this section and shall promote and protect the ability of children to participate in age appropriate extracurricular, enrichment, and social activities.

(e) A foster or kinship parent may use persons to care for or babysit for the child or permit overnight stays outside of the home using the reasonable and prudent foster parent standard.

(f) There is a rebuttable presumption that a caregiver has acted as a reasonable and prudent foster parent.

(g) A caregiver is not liable for harm caused to a child in his or her care who participates in an activity approved by the caregiver, provided that the caregiver has acted as a reasonable and prudent foster parent, unless the foster parent commits an act or omission that is an intentional tort or conduct that is willful, wanton, grossly negligent, reckless, or criminal.

(h) Regardless of the age of the child or the concerns of the foster parent, there shall be no cameras permitted in the bedrooms or bathrooms of foster children in said foster parent's care with the following exemptions:

43 (1) Baby monitors may be used where age appropriate for the child, where the child has
44 been medically diagnosed with severe physical disabilities, or has been medically diagnosed with
45 behavioral, cognitive, or psychological disorders; and

46 (2) Any equipment, or device, utilizing a camera to monitor a child who has been medically
47 diagnosed with severe physical disabilities, or has been medically diagnosed with behavioral,
48 cognitive, or psychological disorders.

49 (3) Mobile phones, computers, tablets, or other smart devices: *Provided*, That the devices
50 listed in this subdivision shall not be utilized for monitoring purposes without a medical diagnosis of
51 a severe physical disability, or a medical diagnosis of a behavioral, cognitive, or psychological
52 disorder.

53 (i) Any exempted device, equipment, baby monitor, mobile phone, computer, tablet, or
54 other smart device provided for in subsection (h) of this section of this code shall only be placed in
55 a conspicuous location and may not be hidden, concealed, or obscured.