

# **WEST VIRGINIA LEGISLATURE**

## **2025 REGULAR SESSION**

### **Introduced**

## **House Bill 3167**

By Delegates Mallow, Heckert, Vance, Drennan,

Dittman, Brooks, DeVault, Ward, and Kump

[Introduced March 05, 2025; referred to the

Committee on the Judiciary]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by inserting a new article thereto,  
2 designated §49-2-1, §49-2-2, and §49-2-3; relating to requiring hair follicle drug testing of  
3 substantiated child abusers before restoring unsupervised visitation rights; and requiring  
4 hair follicle drug testing of affected minors.

*Be it enacted by the Legislature of West Virginia:*

## **CHAPTER 49. CHILD WELFARE.**

### **ARTICLE 12. HUNTER'S LAW.**

#### **§49-2-1. Purpose.**

1 It is the purpose of this article to:  
2 (a) Bring uniformity regarding child abuse and neglect cases to all West Virginia Counties;  
3 (b) Eliminate sole reliability on urine, oral swab, or blood screening because several forms  
4 of cheating on these tests are readily available in an on-line search;  
5 (c) Ensure that the parent, guardian, or other caretaker has met the burden of proof  
6 required in an abuse and neglect case by removing any doubt of urine screen cheating;  
7 (d) Assist the Court and CPS in determining what is in the best interest of children during  
8 the period(s) of improvement and/or disposition of a case by considering the rights of children to  
9 be safe as well as parental rights;  
10 (e) Protect all children against abuse or serious bodily injury, including death;  
11 (f) Safely return children to the home of the parent, guardian, or other caretaker ensuring  
12 the trajectory of a child's future;  
13 (g) Reduce generational drug abuse, thus reducing cost to tax payers; and  
14 (h) Reduce the burden to taxpayers by encouraging parents, guardians, or other  
15 caretakers to seek proper CPS-approved or Court-approved rehabilitation suitable to their  
16 particular drug use and history.

#### **§49-2-2. Hair Follicle Drug Screen Requirements.**

1        Within 48 hours of substantiated child abuse or neglect of a minor, a parent, guardian, or  
2 other caretaker who is the subject of a child abuse and neglect investigation, before any  
3 unsupervised visitation, and/or before children are returned to the care, custody and control of said  
4 parent, guardian, or other caretaker, shall submit to a CPS directive or a Court Order to have a 90-  
5 day 12 panel hair follicle drug test. Said hair follicle test shall be conducted post-investigation to  
6 validate any prior urine or blood screen test results. If the parent, guardian, or other caretaker tests  
7 positive for any illegal drugs or drugs for which they have no prescription, then the minor children  
8 shall also be hair follicle drug tested, including intrauterine fetuses using the best technology at the  
9 time.

**§49-2-3. Procedure.**

1        (a) A 90-day 12-panel hair follicle drug test shall be conducted at the request of CPS or by  
2 Order of the Court upon a substantiated determination of child abuse or neglect in which the use of  
3 illegal substances or substances for which a person has no prescription is an issue.

4        (b) The drug test required by this article shall be conducted:

5        (1) Upon a finding by CPS or Court that child abuse and/or neglect is substantiated;

6        (2) Before any unsupervised visitation with a parent, guardian, or other caretaker who has  
7 been substantiated as committing child abuse and/or neglect;

8        (3) Before the children are returned to the care, custody and control of a parent, guardian,  
9 or other caretaker in any case where child abuse and/or neglect has been substantiated;

10       (c) Any child that is subject to a child abuse and/or neglect case in which the parent,  
11 guardian, or other caretaker has tested positive for drugs in a hair follicle test, shall also be hair  
12 follicle tested within 48 hours of the parent, guardian, or other caretaker testing positive.

13       (d) For any child 12 months of age or younger, the child's birth records shall be obtained to  
14 determine if there was intrauterine drug exposure or a finding of Neonatal Abstinence Syndrome  
15 (NAS).

16       (e) If any minor child, has been exposed to drugs as proven by the child's hair follicle test,

17 either before or after birth, then a neurological examination by a pediatric neurologist shall be  
18 immediately ordered and scheduled by CPS.

19 (f) Any attempted alteration of any drug test results by the parent, guardian or other  
20 caretaker subject to a child abuse and/or neglect investigation or court case shall be considered a  
21 positive drug test. In the case of hair follicle testing, this includes, shaving, coloring, bleaching, or  
22 any other method of altering the test.

23 (g) Failure to comply with CPS directive or Court Ordered hair follicle testing with 48-hours  
24 shall be considered noncompliance and an automatic positive drug test by CPS and the Court.

25 (h) All hair follicle drug test results shall be reported to all members of the MDT, the child's  
26 primary medical provider, CPS, and the Court.

NOTE: The purpose of this bill is to enhance and improve child well-being by requiring a hair follicle drug test of a substantiated child abuser before restoring visitation rights.

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