WEST virginia legislature

2025 regular session

ENGROSSED

Committee Substitute

for

House Bill 3167

By Delegates Mallow, Heckert, Vance, Drennan, Dittman, Brooks, DeVault, and Ward

[Originating in the Committee on the Judiciary; Reported on March 26, 2025]

A BILL to amend the Code of West Virginia, 1931, as amended, by inserting a new section thereto, designated §49-4-611, relating to permitting a circuit court to order 12-panel hair follicle drug testing after the filing of a petition alleging child abuse and neglect, also relating to permitting a circuit court to order a pediatric neurological evaluation of certain children under two months of age if a respondent parent in a child abuse and neglect case tests positive for usage of a controlled substance after submitting to a 12-panel hair follicle drug test, also relating to establishing that attempting to alter hair to evade detection of drug usage as demonstrated by a result from a 12-panel hair follicle drug test shall be considered a positive test, also relating to establishing that noncompliance with a circuit court order that directs a respondent to submit to a 12-panel hair follicle drug test will be considered a positive test result, and establishing that the results of a 12-panel hair follicle drug test can be reported to a multidisciplinary treatment team subject to limitations by a circuit court.

Be it enacted by the Legislature of West Virginia:

Chapter 49. Child Welfare.

Article 12. COURT ACTIONS.

§49-4-611. Court order of a 12-panel hair follicle drug test.

(a) At any point after a petition has been filed, pursuant to §49-4-601 of this code, a circuit court may order that a respondent undergo a 12-panel hair follicle drug test to assess an individual’s usage of a controlled substance over the past 90 days through the testing of a collected hair sample.

(b) For any child two months of age or younger, if a respondent birth mother’s 12-panel hair follicle drug test indicates usage of a controlled substance over the past 90 days a neurological examination by a pediatric neurologist may be ordered by the circuit court.

(c) Any attempt to alter the hair of a respondent, in a manner intended to evade detection of the usage of a controlled substance, after a 12-panel hair follicle drug test has been ordered by the circuit court, shall be considered a positive test result for the usage of a controlled substance. For purposes of this subsection, an attempt to alter the hair of a respondent includes the following:

(1) Shaving;

(2) Coloring or dyeing;

(3) Bleaching;

(4) Electrolysis, or other mechanical or surgical hair removal process; or

(5) Chemical hair removal.

(d) Failure to comply with a court ordered 12-panel hair follicle drug test shall be considered a positive test result for the usage of a controlled substance.

(e) Any result from a 12-panel hair follicle drug test may be reported to all members of the multidisciplinary treatment team as provided in §49-4-405, subject to any limitations that are ordered by a circuit court.

(f) At any point after an allegation is made, prior to the filing of a petition pursuant to §49-4-601 of the code, the respondent may rebut a positive drug result by submitting to a 12 panel hair follicle drug test.