

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]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by inserting a new section thereto,
2 designated §49-4-611, relating to permitting a circuit court to order 12-panel hair follicle
3 drug testing after the filing of a petition alleging child abuse and neglect, also relating to
4 permitting a circuit court to order a pediatric neurological evaluation of certain children
5 under two months of age if a respondent parent in a child abuse and neglect case tests
6 positive for usage of a controlled substance after submitting to a 12-panel hair follicle drug
7 test, also relating to establishing that attempting to alter hair to evade detection of drug
8 usage as demonstrated by a result from a 12-panel hair follicle drug test shall be
9 considered a positive test, also relating to establishing that noncompliance with a circuit
10 court order that directs a respondent to submit to a 12-panel hair follicle drug test will be
11 considered a positive test result, and establishing that the results of a 12-panel hair follicle
12 drug test can be reported to a multidisciplinary treatment team subject to limitations by a
13 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.

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

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

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

8 (1) Shaving;

9 (2) Coloring or dyeing;

10 (3) Bleaching;

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

12 (5) Chemical hair removal.

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

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

18 (f) At any point after an allegation is made, prior to the filing of a petition pursuant to
19 §49-4-601 of the code, the respondent may rebut a positive drug result by submitting to a
20 12 panel hair follicle drug test.