

WEST VIRGINIA LEGISLATURE

2025 REGULAR SESSION

Committee Substitute

for

Senate Bill 821

By Senator Chapman

[Reported March 25, 2025, from the Committee on
Health and Human Resources]

1 A BILL to amend and reenact §49-2-802 of the Code of West Virginia, 1931, as amended, relating
2 to body-worn cameras; requiring Child Protective Services workers to attempt to wear
3 body-worn cameras during investigations; requiring workers to obtain consent to use body
4 worn cameras; permitting workers to refrain from using cameras in specific circumstances;
5 requiring audio and video to be maintained for specified time frame; and stating that audio
6 and video file is part of the confidential child welfare record.

Be it enacted by the Legislature of West Virginia:

ARTICLE 2. STATE RESPONSIBILITIES FOR CHILDREN.

**§49-2-802. Establishment of child protective services; general duties and powers;
administrative procedure; immunity from civil liability; cooperation of other state
agencies.**

1 (a) The department shall establish or designate in every county a local child protective
2 services office to perform the duties and functions set forth in this article.

3 (b) The local child protective services office shall investigate all reports of child abuse or
4 neglect. Under no circumstances may investigating personnel be relatives of the accused, the
5 child or the families involved. In accordance with the local plan for child protective services, it shall
6 provide protective services to prevent further abuse or neglect of children and provide for or
7 arrange for and coordinate and monitor the provision of those services necessary to ensure the
8 safety of children. The local child protective services office shall be organized to maximize the
9 continuity of responsibility, care, and service of individual workers for individual children and
10 families. Under no circumstances may the secretary or his or her designee promulgate rules or
11 establish any policy which restricts the scope or types of alleged abuse or neglect of minor children
12 which are to be investigated or the provision of appropriate and available services.

13 (c) Each local child protective services office shall:

14 (1) Receive or arrange for the receipt of all reports of children known or suspected to be
15 abused or neglected on a 24-hour, seven-day-a-week basis and cross-file all reports under the

names of the children, the family, and any person substantiated as being an abuser or neglecter by investigation of the Department of Human Services, with use of cross-filing of the person's name limited to the internal use of the department: *Provided*, That local child protective services offices shall disclose the names of alleged abusers pursuant to §49-2-802(c)(4) of this code;

(2) Provide or arrange for emergency children's services to be available at all times;

(3) Upon notification of suspected child abuse or neglect, commence or cause to be commenced a thorough investigation of the report and the child's environment. As a part of this response, within 14 days there shall be a face-to-face interview with the child or children and the development of a protection plan, if necessary, for the safety or health of the child, which may involve law-enforcement officers or the court;

(4) Make efforts as soon as practicable to determine the military status of parents whose children are subject to abuse or neglect allegations. If the office determines that a parent or guardian is in the military, the department shall notify a Department of Defense family advocacy program that there is an allegation of abuse and neglect that is screened in and open for investigation that relates to that military parent or guardian;

(5) Respond immediately to all allegations of imminent danger to the physical well-being of the child or of serious physical abuse. As a part of this response, within 72 hours there shall be a face-to-face interview with the child or children and the development of a protection plan, which may involve law-enforcement officers or the court; ~~and~~

(6) In addition to any other requirements imposed by this section, when any matter regarding child custody is pending, the circuit court or family court may refer allegations of child abuse and neglect to the local child protective services office for investigation of the allegations as defined by this chapter and require the local child protective services office to submit a written report of the investigation to the referring circuit court or family court within the time frames set forth by the circuit court or family court; and

(7) Require local child protective services workers to attempt to utilize a body worn camera

42 while investigating all reports of child abuse or neglect: *Provided*, That the child protective service
43 worker shall obtain consent from the person being investigated to use the body worn camera
44 during the course of the investigation: *Provided*, further that the child protective service worker
45 may refrain from using the body worn camera in the event that a body worn camera may, in the
46 opinion of the child protective service worker, compromise the privacy of the child or impede the
47 ability of the worker to conduct an investigation. This shall be documented in the case file. Any
48 audio and video recording from the body worn cameras shall be stored for the duration the case is
49 open and are considered a confidential record pursuant to §49-5-101 of this code.

50 (d) In those cases in which the local child protective services office determines that the
51 best interests of the child require court action, the local child protective services office shall initiate
52 the appropriate legal proceeding.

53 (e) The local child protective services office shall be responsible for providing, directing, or
54 coordinating the appropriate and timely delivery of services to any child suspected or known to be
55 abused or neglected, including services to the child's family and those responsible for the child's
56 care.

57 (f) To carry out the purposes of this article, all departments, boards, bureaus, and other
58 agencies of the state or any of its political subdivisions and all agencies providing services under
59 the local child protective services plan shall, upon request, provide to the local child protective
60 services office any assistance and information as will enable it to fulfill its responsibilities.

61 (g)(1) In order to obtain information regarding the location of a child who is the subject of an
62 allegation of abuse or neglect, the Secretary of the Department of Human Services may serve, by
63 certified mail or personal service, an administrative subpoena on any corporation, partnership,
64 business, or organization for the production of information leading to determining the location of
65 the child.

66 (2) In case of disobedience to the subpoena, in compelling the production of documents,
67 the secretary may invoke the aid of:

(A) The circuit court with jurisdiction over the served party if the person served is a resident; or

(B) The circuit court of the county in which the local child protective services office conducting the investigation is located if the person served is a nonresident.

(3) A circuit court shall not enforce an administrative subpoena unless it finds that:

(A) The investigation is one the Division of Child Protective Services is authorized to make and is being conducted pursuant to a legitimate purpose;

(B) The inquiry is relevant to that purpose;

(C) The inquiry is not too broad or indefinite;

(D) The information sought is not already in the possession of the Division of Child Protective Services; and

(E) Any administrative steps required by law have been followed.

(4) If circumstances arise where the secretary, or his or her designee, determines it necessary to compel an individual to provide information regarding the location of a child who is the subject of an allegation of abuse or neglect, the secretary, or his or her designee, may seek a subpoena from the circuit court with jurisdiction over the individual from whom the information is sought.

(h) No child protective services caseworker may be held personally liable for any professional decision or action taken pursuant to that decision in the performance of his or her official duties as set forth in this section or agency rules promulgated thereupon. However, nothing in this subsection protects any child protective services worker from any liability arising from the operation of a motor vehicle or for any loss caused by gross negligence, willful and wanton misconduct, or intentional misconduct.