

WEST VIRGINIA LEGISLATURE

2025 REGULAR SESSION

Introduced

Senate Bill 851

**FISCAL
NOTE**

By Senators Rose, Chapman, Helton, Maynard,

Rucker, and Willis

[Introduced March 20, 2025; referred
to the Committee on the Judiciary; and then to the
Committee on Finance]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding a new section
2 designated, §49-2-802a, relating to creating the Child Protection Investigations Reform
3 Act; and requiring notification to a person accused of child abuse or neglect of the person's
4 rights in connection with an investigation conducted by the Department of Human
5 Services.

Be it enacted by the Legislature of West Virginia:

ARTICLE 2. STATE RESPONSIBILITIES FOR CHILDREN.

§49-2-802a. Child Protection Investigations Reform Act.

1 (a) Notwithstanding any other provision of code to the contrary, immediately upon initiating
2 an investigation of a parent or other person having legal custody of a child, the department shall,
3 upon first contact with the person, provide to the person:

4 (1) A Summary that:

5 (A) Is brief and easily understood;

6 (B) Is written in a language that the person understands, or if the person is illiterate, is read
7 to the person in a language that the person understands; and

8 (C) Contains the following information:

9 (i) The department's procedures for conducting an investigation of alleged child abuse or
10 neglect, including: a description of the circumstances under which the department would request
11 to remove the child from the home through the judicial system; and an explanation that the law
12 requires the department to refer all reports of alleged child abuse or neglect to a law enforcement
13 agency for a separate determination of whether a criminal violation occurred;

14 (ii) The person's right to file a complaint with the department in the investigation;

15 (iii) The person's right to review all records of the investigation unless the review would
16 jeopardize an ongoing criminal investigation or the child's safety;

17 (iv) The person's right to seek legal counsel;

18 (v) References to the statutory and regulatory provisions governing child abuse and

neglect and how the person may obtain copies of those provisions;

(vi) The process the person may use to acquire access to the child if the child is removed from the home; and

(vii) The rights listed under subdivision (2) of subsection (a) :

(2) A verbal notification made in a language that the person understands that the Fourth Amendment to the United States Constitution applies to the department, and protects the person, and that the person has the right to:

(A) Exercise his or her right against self-incrimination and not speak with any agent of the department without legal counsel present;

(B) Assistance by an attorney;

(C) Have court-appointed attorney if the person is indigent;

(D) Record any interaction or interview subject to disclosure to the department, law enforcement, or another party under a court order;

(E) Refuse to allow the investigator to enter the home or interview the children without legal counsel present;

(F) Withhold consent to the release of any medical or mental health records;

(G) Withhold consent to any medical or psychological examination of the child;

(H) Refuse to submit to a drug or urine test; and

(I) Consult with legal counsel prior to agreeing to any proposed voluntary safety plan; and

(3) A verbal or written summary made in a language that the person understands of the allegations against the person, and whether they were made by an anonymous reporter.

(b) The department shall adopt a form for the purpose of verifying that the parent or other person having legal custody of the child received the verbal notification and written summary required by this section.

(c) The changes in law made by this section apply only to an investigation of a report of child abuse or neglect that is made on or after the effective date of this section. An investigation of

- 45 a report of abuse or neglect made before the effective date of this section is governed by the law in
46 effect on the date the report was made, and the former law is continued in effect for that purpose.
47 (d) This section takes effect on July 1, 2025.

NOTE: The purpose of this bill is to create the Child Protection Investigations Reform Act; and require notification to a person accused of child abuse or neglect of the person's rights in connection with an investigation conducted by the Department of Human Services.

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