

WEST VIRGINIA LEGISLATURE

2025 REGULAR SESSION

Introduced

Senate Bill 865

By Senator Chapman

[Introduced March 21, 2025; referred
to the Committee on Health and Human Resources;
and then to the Committee on the Judiciary]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding a new section,
2 designated §49-4-611, relating to the best interests of the child standard; establishing that
3 the best interests of the child shall be the paramount consideration in all decisions made by
4 specific state entities and individuals; providing that it is a comprehensive assessment;
5 laying out the factors to assess; providing that all policies must be consistent with this
6 principle; providing for review and appeal of decisions; and providing that guardian ad litem
7 must advocate solely for the best interest of the child.

Be it enacted by the Legislature of West Virginia:

ARTICLE 4. COURT ACTIONS.

§49-4-611. Best interests of the child to be given paramount consideration.

1 (a) Notwithstanding any other provision of this code, in all decisions made by the West
2 Virginia Department of Human Services, the West Virginia court system, any appointed guardian
3 ad litem, and any vendor contracted by the State of West Virginia for the provision of services to
4 children under the jurisdiction of the Department of Human Services or the courts, the best
5 interests of the individual child shall be the paramount consideration.

6 (b) The determination of the best interests of the child shall be based on a comprehensive
7 assessment of all relevant factors, including, but not limited to:

8 (1) The child's safety, physical health, and mental health;

9 (2) The child's emotional well-being and developmental needs;

10 (3) The child's wishes and preferences, to the extent that they can be reasonably
11 ascertained and are consistent with the child's best interests;

12 (4) The child's relationships with parents, siblings, relatives, and other significant
13 individuals;

14 (5) The child's need for stability and permanency;

15 (6) The child's cultural and religious background;

16 (7) The child's educational needs;

17 (8) The potential for reunification with the child's family, if reunification is consistent with the
18 child's best interests;

19 (9) Any history of abuse, neglect, or domestic violence affecting the child or the child's
20 family;

21 (10) The availability of appropriate services and resources to meet the child's needs;

22 (11) The placement of the child with trusted and safe caregivers known to the child when
23 available;

24 (12) The placement of the child in their community if appropriate and safe supports are
25 available; and

26 (13) The provision of medical, mental health, and behavioral treatment in the most
27 appropriate setting.

28 (c) All policies, procedures, and practices of the West Virginia Department of Human
29 Services, the West Virginia court system, and any vendor contracted by the State of West Virginia
30 for the provision of services to children shall be consistent with the principle that the best interests
31 of the individual child are the paramount consideration.

32 (d) Any decision made by the West Virginia Department of Human Services, the West
33 Virginia court system, or any vendor contracted by the State of West Virginia that is not consistent
34 with the best interests of the individual child shall be subject to review and appeal.

35 (e) Any guardian ad litem appointed to represent the interest of the child must advocate
36 solely for the best interest of the child.

37 (f) This section shall be construed to require that the best interests of the individual child
38 are prioritized above all other factors, including but not limited to, the interests of the Department of
39 Human Services, the court system, vendors, parents, or other individuals.

NOTE: The purpose of this bill is to ensure that the best interest of the child is paramount in decisions made by specific state entities or individuals. It provides the factors that must be considered when assessing the child's best interests.

Strike-throughs indicate language that would be stricken from a heading or the present law

and underscoring indicates new language that would be added.