

WEST VIRGINIA LEGISLATURE

2025 REGULAR SESSION

Committee Substitute

for

Senate Bill 865

By Senators Chapman and Rose

[Reported March 26, 2025, from the Committee on
Health and Human Resources]

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

(a) Subject to any provision of this chapter regarding the rights of a parent to raise his or her minor child, but notwithstanding any other provision of this code, in all decisions made by the West Virginia Department of Human Services, the West Virginia court system, any appointed guardian *ad litem*, and any vendor contracted by the State of West Virginia for the provision of services to children under the jurisdiction of the Department of Human Services or the courts, the best interests of the individual child shall be the paramount consideration.

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

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

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

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

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

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

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

17 (7) The child's educational needs;

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

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

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

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

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

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

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

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

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

38 (f) This section shall be construed to require that the best interests of the individual child
39 are prioritized above all other factors, including but not limited to, the interests of the Department of
40 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.