

# **WEST VIRGINIA LEGISLATURE**

## **2025 REGULAR SESSION**

**Introduced**

### **Senate Bill 919**

By Senator Maynard

[Introduced March 24, 2025; referred  
to the Committee on Health and Human Resources;  
and then to the Committee on Finance]

1 A BILL to amend and reenact §49-2-802 of the Code of West Virginia, 1931, as amended, relating  
2 to mandating audio recording during Child Protective Services investigations and  
3 interactions during visits.

*Be it enacted by the Legislature of West Virginia:*

**ARTICLE 2. STATE RESPONSIBILITIES FOR CHILDREN.**

**Part VIII. Reports of Children Suspected of abuse.**

**§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  
16 names of the children, the family, and any person substantiated as being an abuser or neglecter by

17 investigation of the Department of Health and Human Resources, with use of cross-filing of the  
18 person's name limited to the internal use of the department: *Provided*, That local child protective  
19 services offices shall disclose the names of alleged abusers pursuant to §49-2-802(c)(4) of this  
20 code;

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

22 (3) Upon notification of suspected child abuse or neglect, commence or cause to be  
23 commenced a thorough investigation of the report and the child's environment. There shall be  
24 audio and video recordings made of every investigatory or exploratory interaction between a  
25 representative of CPS and a member of the public when that member of the public is currently  
26 under investigation due to abuse and neglect allegations. These recordings shall be accomplished  
27 via body cams similar to those worn by law enforcement. Where these interactions involve home  
28 visits, or interviews conducted in a place where the accused person enjoys an expectation of  
29 privacy, the representative of CPS shall obtain informed consent or a court order before making  
30 such audio and video recordings. All recordings made pursuant to this subsection shall be  
31 submitted to the court as evidence in any proceeding involving the investigation. As a part of this  
32 response, within 14 days there shall be a face-to-face interview with the child or children and the  
33 development of a protection plan, if necessary, for the safety or health of the child, which may  
34 involve law-enforcement officers or the court;

35 (4) In addition to the audio and video recordings made pursuant to the investigation, all  
36 communication between interested parties shall be documented. Interested parties include the  
37 party or parties being investigated, a guardian ad litem, if appointed, the CPS worker conducting  
38 the investigation, and any lawyers associated in the prosecution of the allegations. This  
39 documentation includes recordings of phone calls, saving of texts and emails, and preservation of  
40 any other forms of communication concerning the investigation. Parents, or any party under  
41 investigation, shall also enjoy the right to make any recordings of conversations, texts and emails,

42 or any other communications associated with the investigation that shall share the same  
43 evidentiary weight as those submitted by other parties.

44 (4)(5) Make efforts as soon as practicable to determine the military status of parents whose  
45 children are subject to abuse or neglect allegations. If the office determines that a parent or  
46 guardian is in the military, the department shall notify a Department of Defense family advocacy  
47 program that there is an allegation of abuse and neglect that is screened in and open for  
48 investigation that relates to that military parent or guardian;

49 (5)(6) Respond immediately to all allegations of imminent danger to the physical well-being  
50 of the child or of serious physical abuse. As a part of this response, within 72 hours there shall be a  
51 face-to-face interview with the child or children and the development of a protection plan, which  
52 may involve law-enforcement officers or the court; and

53 (6)(7) In addition to any other requirements imposed by this section, when any matter  
54 regarding child custody is pending, the circuit court or family court may refer allegations of child  
55 abuse and neglect to the local child protective services office for investigation of the allegations as  
56 defined by this chapter and require the local child protective services office to submit a written  
57 report of the investigation to the referring circuit court or family court within the time frames set  
58 forth by the circuit court or family court.

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

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

66 (f) To carry out the purposes of this article, all departments, boards, bureaus, and other  
67 agencies of the state or any of its political subdivisions and all agencies providing services under

the local child protective services plan shall, upon request, provide to the local child protective services office any assistance and information as will enable it to fulfill its responsibilities.

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

(2) In case of disobedience to the subpoena, in compelling the production of documents, 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.

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

NOTE: The purpose of this bill is to mandate audio recording during Child Protective Services investigations and interactions during visits.

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