

WEST VIRGINIA LEGISLATURE

2026 REGULAR SESSION

Introduced

House Bill 4384

By Delegate Burkhammer

[Introduced January 15, 2026; referred to the
Committee on the Judiciary]

1 A BILL to amend and reenact §9-6-4 and §9-6-5 of the Code of West Virginia, 1931, as amended,
2 relating to suspending any medical power of attorney in place for a vulnerable adult when
3 an adult protective services investigation is ongoing and to fully invalidate the medical
4 power of attorney if abuse is substantiated by a court.

Be it enacted by the Legislature of West Virginia:

ARTICLE 6. SOCIAL SERVICES FOR ADULTS.

§9-6-4. Action to abate abuse, neglect, emergency, or financial exploitation.

1 (a) The department or any reputable person may bring and maintain an action against any
2 person having actual care, custody, or control of a vulnerable adult, for injunctive relief, including a
3 preliminary injunction, to restrain and abate any abuse, neglect, or financial exploitation of a
4 vulnerable adult or to abate an emergency situation. In any such proceeding the court shall
5 appoint a guardian ad litem, to protect the interests of the vulnerable adult, who shall not be an
6 employee of the state, nor be a party to the proceeding, nor be selected by, or in the employ of, any
7 party to the proceeding: *Provided*, That the court may by order terminate assistance granted or
8 paid to any person found to have abused, neglected, or financially exploited a vulnerable adult and
9 order any such assistance to be paid to another person solely for the use and benefit of such
10 abused, neglected, or financially exploited person, and grant such other equitable relief as may be
11 appropriate in the circumstances to restrain and abate such abuse or neglect: *Provided, however*,
12 That in the case of an action to abate an emergency situation, the court may grant the relief
13 authorized in §9-6-5 of this code.

14 (b) When an investigation into allegations against any person having actual care, custody,
15 or control of a vulnerable adult, for injunctive relief, including a preliminary injunction, to restrain
16 and abate any abuse, neglect, or financial exploitation of a vulnerable adult is opened, the
17 department shall immediately file a medical power of attorney that supersedes any previous
18 medical power of attorney for the vulnerable adult.

§9-6-5. Emergency immediate remedial treatment; procedure.

1 (a) Whenever a circuit court shall find in an action to abate an emergency situation that
2 there is probable cause to believe that a vulnerable adult is in an emergency situation and that the
3 person or persons having the immediate care, custody, and control of such vulnerable adult
4 refuses to take necessary steps to alleviate such emergency, or that such vulnerable adult is
5 without the actual care, custody, and control of any persons, it may issue an order of attachment
6 for such vulnerable adult and direct that the peace officer executing the same deliver such
7 vulnerable adult in his custody to a hospital or other safe place except a jail, for immediate
8 remedial treatment to reduce or avoid the risk of death or serious injury. In the event that an order
9 of attachment is issued pursuant to this section, any peace officer executing the order, and such
10 employees of the department the peace officer directs to accompany him, may enter into the place
11 of abode to remove such vulnerable person, notwithstanding the residence therein of other
12 persons.

13 If any employee or officer of the department shall by direct observation of a vulnerable
14 adult not in the immediate care, custody, or control of another, have reasonable cause to believe
15 that such vulnerable person is then and there in an emergency situation, then such officer or
16 employee may offer transportation to a hospital or other safe place, other than a jail, to such
17 vulnerable adult for immediate remedial treatment to reduce or avoid the risk of death or serious
18 injury.

19 Immediately upon delivery of any vulnerable person to such hospital or other safe place,
20 such officer or employee shall apply to the circuit court for and the court shall appoint, and in the
21 case of an attachment the court shall contemporaneously with its issuance appoint, a guardian ad
22 litem who shall not be an employee of the state, nor be an interested party, nor be selected by, nor
23 in the employ of, any interested party, to represent the interests of such vulnerable adult, and the
24 court shall fix a time, not later than one judicial day later, to determine if such remedial treatment
25 shall continue or such vulnerable adult should be released. A copy of that attachment and notice of
26 such hearing shall be served on any person in whose actual care, custody, and control such

27 vulnerable adult is found. If further remedial treatment is required, application shall be promptly
28 made to the county commission or such other proper tribunal for appropriate relief: *Provided*, That
29 the commitment for further remedial treatment may be continued until proceedings for such
30 appropriate relief be concluded: *Provided, however*, That application for release from such
31 remedial treatment may be made and granted at any time that the emergency ceases.

32 (b) When a substantiation is found by a court of allegations against any person having
33 actual care, custody, or control of a vulnerable adult, for injunctive relief, including a preliminary
34 injunction, to restrain and abate any abuse, neglect, or financial exploitation of a vulnerable adult is
35 opened, the court shall issue a permanent medical power of attorney regarding the medical care of
36 the vulnerable adult, allowing the department to make necessary medical decisions.

NOTE: The purpose of this bill is to suspend any medical power of attorney in place for a vulnerable adult when an adult protective services investigation is ongoing and to fully invalidate the medical power of attorney if abuse is substantiated by a court

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