

# **WEST VIRGINIA LEGISLATURE**

## **2026 REGULAR SESSION**

**Introduced**

**House Bill 5208**

**FISCAL  
NOTE**

By Delegate Anders

[Introduced February 05, 2026; referred to the

Committee on the Judiciary]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding a new article,  
2 designated §49-13-1, §49-13-2, §49-13-3, §49-13-4, §49-13-5, §49-13-6, §49-13-7, §49-  
3 13-8, §49-13-9, §49-13-10, §49-13-11, and §49-13-12, relating to child protective services;  
4 establishing the Child Protective Services Due Process and Child Protection Act; clarifying  
5 that child abuse and neglect matters are governed exclusively by this article; requiring  
6 heightened burdens of proof; mandating sworn testimony; prohibiting administrative or  
7 "safety plan" removals; guaranteeing the right to counsel; establishing clear evidentiary  
8 standards; protecting against poverty-based removals;; creating penalties for misconduct;  
9 and providing transparency and oversight.

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

**ARTICLE 13. CHILD PROTECTIVE SERVICES DUE PROCESS AND CHILD  
PROTECTION ACT**

**§49-13-1.** **Short** **title.**

1 This Article shall be known and may be cited as the "Child Protective Services Due  
2 Process and Child Protection Act."

**§49-13-2.** **Legislative** **findings.**

1 (a) The Legislature finds that the family is the foundational institution of a free society, and  
2 the removal of a child from a parent is one of the most severe deprivations of liberty known to law,  
3 requiring the highest procedural safeguards.

**§49-13-3.** **Scope** **and** **jurisdiction.**

1 This article governs all child abuse and neglect investigations, removals, custody  
2 restrictions, and termination of parental rights initiated by Child Protective Services.

**§49-13-4.** **Sworn** **testimony** **required.**

1 All Child Protective Services testimony, reports, or recommendations shall be sworn under  
2 oath and subject to penalties of perjury.

3

**§49-13-5. Proceedings in a court of record.**

1       (a) All proceedings affecting parental rights shall occur in court of record and be recorded  
2       for appeal.

3       (b) Notwithstanding the requirements of recording and preservation under this section, the  
4       court shall take reasonable steps to protect the privacy and dignity of any child or parent involved  
5       in allegations of sexual abuse or sexual assault, consistent with constitutional due process

**§49-13-5a. Privacy protections in cases involving allegations of sexual assault.**

1       (a) In any child protective services proceeding involving allegations of sexual assault, the  
2       court shall:

3           (1) Seal personally identifying information of the alleged victim and accused parent or  
4       guardian from public disclosure, except as necessary for judicial proceedings, appeal, or lawful  
5       investigation;

6           (2) Use initials or pseudonyms in publicly accessible dockets, orders, and opinions;

7           (3) Conduct in-camera review of sensitive evidence when necessary to protect privacy,  
8       provided that all parties retain full access to the evidence for purposes of defense and cross-  
9       examination.

10          (b) No audio, video, transcript, report, or exhibit containing graphic sexual content or  
11       identifying information of an alleged victim or accused parent may be released to the public,  
12       except by court order upon a showing of compelling public interest.

13          (c) Nothing in this section shall be construed to:

14           (1) Limit the accused parent's right to confront witnesses, access evidence, or receive a  
15       fair and public trial;

16           (2) Permit anonymous accusations to serve as evidence absent sworn testimony subject  
17       to cross-examination; or

18        (3) Allow sealing or records to conceal government misconduct, perjury, or violations of  
19 due process.

20        (d) Any intentional disclosure by a government employee of sealed or protected  
21 information in violation of this section constitutes misconduct and is subject to disciplinary action,  
22 civil liability, and applicable criminal penalties.

**§49-13-6. Prohibition on administrative or safety plan removals.**

23        No child may be removed without a court order except in cases of immediate physical  
24 danger.

**§49-13-7. Legal standards for state intervention.**

1        (a) Emergency removal requires probable cause; adjudication requires clear and  
2 convincing evidence; termination requires proof beyond a reasonable doubt.

**§49-13-8. Poverty not neglect.**

1        Poverty-related conditions may not constitute abuse or neglect.

**§49-13-9. Right to counsel.**

1        Parents shall be appointed legal counsel immediately upon any removal.

**§49-13-10. Penalties for misconduct.**

1        Child Protective Services misconduct is punishable by criminal penalties and civil liability.

**§49-13-11. Transparency and oversight.**

1        Quarterly public reporting of Child Protective Services is required.

**§49-13-12. Effective Date.**

1        This article shall take effect July 1, 2027.

NOTE: The purpose of this bill is to create the Child Protective Services Due Process and Child Protection Act.

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