

# **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]

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

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

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

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

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

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

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

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

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**§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

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

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

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

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

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

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

**§49-13-8. Poverty not neglect.**

Poverty-related conditions may not constitute abuse or neglect.

**§49-13-9. Right to counsel.**

Parents shall be appointed legal counsel immediately upon any removal.

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

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

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

Quarterly public reporting of Child Protective Services is required.

**§49-13-12. Effective Date.**

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.