

WEST VIRGINIA LEGISLATURE

2026 REGULAR SESSION

Introduced

House Bill 5649

By Delegate Akers

[Introduced February 17, 2026; referred to the
Committee on the Judiciary]

1 A BILL to amend and reenact §9-6-8 of the Code of West Virginia, 1931, as amended, relating to
 2 confidentiality of certain records pertaining to adults and facility residents; clarifying the
 3 permissible disclosures to other governmental entities; and setting forth a procedure for
 4 the limited disclosure and use of said records in proceedings before the Public Employee’s
 5 Grievance Board.

Be it enacted by the Legislature of West Virginia:

ARTICLE 6. SOCIAL SERVICES FOR ADULTS
§9-6-8. Confidentiality of records.

1 (a) Except as otherwise provided in this section, all records of the department, state and
 2 regional long-term care ombudsmen, nursing home or facility administrators, the Office of Health
 3 Facility Licensure and Certification, and all protective services agencies concerning an adult or
 4 facility resident under this article are confidential and may not be released, except in accordance
 5 with the provisions of §9-6-11 of this code.

6 (b) Unless the vulnerable adult concerned is receiving adult protective services, or unless
 7 there are pending proceedings regarding the vulnerable adult, the records maintained by the adult
 8 protective services agency shall be destroyed 30 years following their preparation.

9 (c) Notwithstanding the provisions of subsection (a) of this section or any other provision of
 10 this code to the contrary, records concerning reports of abuse, neglect, or financial exploitation of a
 11 vulnerable adult, including all records generated as a result of such reports, may be made
 12 available to:

13 (1) Employees or agents of the department who need access to the records for official
 14 business;

15 (2) Any law enforcement agency Federal, state, or local governmental entities, or any
 16 agent of those entities, including law-enforcement agencies and prosecuting attorneys,
 17 investigating a report of known or suspected abuse, neglect, or financial exploitation of a
 18 vulnerable adult;

19 ~~(3) The prosecuting attorney of the judicial circuit in which the vulnerable adult resides or in~~
20 ~~which the alleged abuse, neglect, or financial exploitation occurred;~~

21 ~~(4)~~(3) A circuit court or the Supreme Court of Appeals subpoenaing the records. The court
22 shall, before permitting use of the records in connection with any court proceeding, review the
23 records for relevancy and materiality to the issues in the proceeding. The court may issue an order
24 to limit the examination and use of the records or any part of the record;

25 ~~(5)~~(4) A grand jury, by subpoena, upon its determination that access to the records is
26 necessary in the conduct of its official business;

27 ~~(6)~~(5) The recognized protection and advocacy agency for the disabled of the State of
28 West Virginia;

29 ~~(7)~~(6) The victim; and

30 ~~(8)~~(7) The victim's legal representative, unless he or she is the subject of an investigation
31 under this article.

32 (d) Notwithstanding the provisions of subsection (a) of this section or any other provision of
33 this code to the contrary, records concerning reports of abuse, neglect, or financial exploitation of a
34 vulnerable adult, including all records generated as a result of such reports, may be published and
35 disclosed for use in an administrative hearing if the disclosure is done in compliance with
36 subsections (e), (f), and (g) of this section.

37 (e) Records declared to be confidential by the provisions of this section may not be
38 released for use in an administrative hearing except:

39 (1) Upon written motion of a party; and

40 (2) Upon an order of the administrative hearing officer entered after an in-camera hearing
41 regarding the relevance of the record.

42 (f) If confidential records are disclosed to a party to an administrative hearing, his or her
43 counsel or representative, pursuant to subsection (e) of this section:

44 (1) The department shall ensure that records are redacted of all identifying information of

45 any vulnerable adult which is not relevant to the resolution of the issue before the administrative
46 hearing official;

47 (2) Relevant video and audio records may be disclosed without redaction; and

48 (3) Records released to a party to an administrative hearing or his or her counsel or
49 representative may only be used for the purposes of his or her administrative proceeding and may
50 not be disclosed, published, copied, or distributed for any other purpose and, upon the conclusion
51 of the administrative hearing procedure, shall be returned to the department.

52 (g) If a party to an administrative hearing or the department seeks judicial review of a
53 decision of an administrative hearing officer, the relevant confidential records disclosed and used
54 in the administrative hearing may be used in the appeal proceeding only upon entry of an order by
55 the circuit court which limits disclosure or publication of the records to the purposes necessary to
56 the proceeding and prohibits unauthorized use and reproduction.

57 ~~(d)~~(h) Notwithstanding the provisions of subsection (a) of this section or any other
58 provision of this code to the contrary, summaries concerning substantiated investigative reports of
59 abuse, neglect, or financial exploitation of vulnerable adults may be made available to:

60 Any person who the department has determined to have abused, neglected, or financially
61 exploited the victim.

62 ~~(e)~~(i) Notwithstanding the provisions of subsection (a) of this section or any other provision
63 of this code to the contrary, summaries concerning substantiated and unsubstantiated
64 investigative reports of abuse, neglect, or financial exploitation of vulnerable adults may be made
65 available to:

66 (1) Any appropriate official of the state or regional long-term care ombudsman
67 investigating a report of known or suspected abuse, neglect or financial exploitation of a
68 vulnerable adult;

69 (2) Any person engaged in bona fide research or auditing, as defined by the department.
70 However, information identifying the subjects of the report may not be made available to the

71 researcher;

72 (3) Employees or agents of an agency of another state that has jurisdiction to investigate
73 known or suspected abuse, neglect, or exploitation of vulnerable adults;

74 (4) A professional person when the information is necessary for the diagnosis and
75 treatment of, and service delivery to, a vulnerable adult; and

76 ~~(5) A department administrative hearing officer when the hearing officer determines the
77 information is necessary for the determination of an issue before the officer.~~

78 (f)(j) Notwithstanding the provisions of subsection (a), subsection ~~(e)(i)~~, or any other
79 provision of this code to the contrary, all records concerning substantiated and unsubstantiated
80 referrals of financial exploitation of a vulnerable adult may be made available to the State Auditor's
81 Office in order to carry out any investigations which that office or its appropriate divisions are
82 required or authorized to undertake.

83 ~~(g)(k)~~ The identity of any person reporting abuse, neglect, or financial exploitation of a
84 vulnerable adult may not be released without that person's written consent to any person other
85 than employees of the department responsible for protective services or the appropriate
86 prosecuting attorney or law-enforcement agency. This subsection grants protection only for the
87 person who reported the abuse, neglect, or financial exploitation and protects only the fact that the
88 person is the reporter. This subsection does not prohibit the subpoena of a person reporting the
89 abuse, neglect, or financial exploitation when deemed necessary by the prosecuting attorney or
90 the department to protect a vulnerable adult who is the subject of a report, if the fact that the
91 person made the report is not disclosed.

NOTE: The purpose of this bill is to clarify permissible disclosures of confidential records to certain governmental entities and to set forth a procedure for the limited disclosure and use of confidential records in administrative hearings.

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