

# **WEST VIRGINIA LEGISLATURE**

**2026 REGULAR SESSION**

**Committee Substitute**

**for**

**Senate Bill 541**

BY SENATORS DEEDS, GRADY, M. MAYNARD, AND

ROBERTS

[Reported February 25, 2026, from the Committee on  
the Judiciary]



1 A BILL to amend and reenact §49-4-608 and §49-4-610 of the Code of West Virginia, 1931, as  
2 amended, relating to the circuit court's responsibilities in juvenile child abuse and neglect  
3 proceedings; requiring the court to make certain designated findings of fact for  
4 continuance orders reports to the Public Defender Services; and requiring improvement  
5 period orders to state the guardian ad litem's responsibilities throughout the improvement  
6 period.

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

**ARTICLE 4. COURT ACTIONS.**

**§49-4-608. Permanency hearing; frequency; transitional planning; out-of-state placement;  
findings; notice; permanent placement review.**

1 (a) *Permanency hearing when reasonable efforts are not required.* — If the court finds  
2 pursuant to this article that the department is not required to make reasonable efforts to preserve  
3 the family, then notwithstanding any other provision, the court shall hold a permanency hearing  
4 ~~must be held~~ within 30 days following the entry of the court order, and shall conduct a permanent  
5 placement review hearing ~~must be conducted~~ at least once every 90 days thereafter until a  
6 permanent placement is achieved.

7 (b) *Permanency hearing every 12 months until permanency is achieved.* — If 12 months  
8 after receipt by the department or its authorized agent of physical care, custody, and control of a  
9 child either by a court-ordered placement or by a voluntary agreement the department has not  
10 placed a child in an adoptive home, placed the child with a natural parent, placed the child in legal  
11 guardianship, or permanently placed the child with a fit and willing relative, the court shall hold a  
12 permanency hearing. The department shall file a progress report with the court detailing the efforts  
13 that have been made to place the child in a permanent home and copies of the child's case plan,  
14 which shall include the permanency plan as defined in §49-1-201 and §49-4-604 of this code.  
15 Copies of the report shall be sent to the parties and all persons entitled to notice and the right to  
16 be heard. The court shall schedule a hearing giving notice and the right to be present to the child's

17 attorney; the child; the child's parents; the child's guardians; the child's foster parents; any pre-  
18 adoptive parent, or any relative providing care for the child; any person entitled to notice and the  
19 right to be heard; and other persons as the court may, in its discretion, direct. The child's presence  
20 may be waived by the child's attorney at the request of the child or if the child is younger than 12  
21 years of age and would suffer emotional harm. The purpose of the hearing is to review the child's  
22 case, to determine whether and under what conditions the child's commitment to the department  
23 shall continue, to determine what efforts are necessary to provide the child with a permanent  
24 home, and to determine if the department has made reasonable efforts to finalize the permanency  
25 plan. The court shall conduct another permanency hearing within 12 months thereafter for each  
26 child who remains in the care, custody, and control of the department until the child is placed in  
27 an adoptive home, returned to his or her parents, placed in legal guardianship, or permanently  
28 placed with a fit and willing relative.

29 (c) *Transitional planning for older children.* — In the case of a child who has attained 16  
30 years of age, the court shall determine the services needed to assist the child to make the  
31 transition from foster care to independent living. The child's case plan should specify services  
32 aimed at transitioning the child into adulthood. When a child turns 17, or as soon as a child aged  
33 17 comes into a case, the department ~~must~~ shall immediately provide the child with assistance  
34 and support in developing a transition plan that is personalized at the direction of the child. The  
35 plan ~~must~~ shall include specific options ~~on~~ for housing, health insurance, education, local  
36 opportunities for mentors, continuing support services, work force support, and employment  
37 services, and the plan should be as detailed as the child may elect. In addition to these  
38 requirements, when a child with special needs turns 17, or as soon as a child aged 17 with special  
39 needs comes into a case, he or she is entitled to the appointment of a department adult services  
40 worker to the multidisciplinary treatment team, and coordination between the multidisciplinary  
41 treatment team and other transition planning teams, such as special education individualized  
42 education planning (IEP) teams.

43 (d) *Out-of-state placements.* — A court may not order a child to be placed in an out-of-  
44 state facility unless the child is diagnosed with a health issue that no in-state facility or program  
45 serves unless a placement out of state is in closer proximity to the child's family for the necessary  
46 care or the services are able to be provided more timely. If the child is to be placed with a relative  
47 or other responsible person out of state, the court shall use judicial leadership to help expedite  
48 the process under the Interstate Compact for the Placement of Children provided in §49-7-101  
49 and §49-7-102 of this code and the Uniform Child Custody Jurisdiction and Enforcement Act  
50 provided in §48-20-101 *et seq.* of this code.

51 (e) *Findings in order.* — At the conclusion of the hearing the court shall, in accordance  
52 with the best interests of the child, enter an order containing all the appropriate findings. The court  
53 order shall ~~state~~:

54 (1) State whether or not the department made reasonable efforts to preserve the family  
55 and to prevent out-of-home placement or that the specific situation made the effort unreasonable;

56 (2) State whether or not the department made reasonable efforts to finalize the  
57 permanency plan and concurrent plan for the child;

58 (3) State the appropriateness of the child's current placement, including its distance from  
59 the child's home and whether or not it is the least restrictive one (or most family-like one) available;

60 (4) State the appropriateness of the current educational setting and the proximity to the  
61 school in which the child is enrolled at the time of placement;

62 (5) State the services required to meet the child's needs and achieve permanency; and

63 (6) In ~~addition,~~ in the case of any child for whom another planned permanent living  
64 arrangement is the permanency plan, ~~the court shall~~:

65 (A) ~~Inquire~~ Inquire of the child about the desired permanency outcome for the child;

66 (B) Make a judicial determination explaining why, as of the date of the hearing, another  
67 planned permanent living arrangement is the best permanency plan for the child; and

68 (C) Provide in the court order compelling reasons why it continues to not be in the best  
69 interest of the child to: (i) Return home; (ii) be placed for adoption; (iii) be placed with a legal  
70 guardian; or (iv) be placed with a fit and willing relative.

71 (f) The department shall annually report to the court the current status of the placements  
72 of children in the care, custody, and control of the ~~state~~ department who have not been adopted.

73 (g) The department shall file a report with the court in any case where ~~any a~~ child in the  
74 custody of the state receives more than three placements in one year no later than 30 days after  
75 the third placement. ~~This~~ The department shall provide this report ~~shall be provided~~ to all parties  
76 and persons entitled to notice and the right to be heard. Upon motion by any party, the court shall  
77 review these placements and determine what efforts are necessary to provide the child with a  
78 permanent home. ~~No~~ The department shall not provide a report ~~may be provided~~ to any parent  
79 or parent's attorney whose parental rights have been terminated pursuant to this article.

80 (h) The department shall give actual notice, in writing, to the court, the child, the child's  
81 attorney, the parents, and the parents' attorney at least 48 hours prior to the move if this is a  
82 planned move, or within 48 hours of the next business day after the move if the child is in imminent  
83 danger in the child's current placement, except where the notification would endanger the child or  
84 the foster family. A multidisciplinary treatment team shall convene as soon as practicable after  
85 notice to explore placement options. This requirement is not waived by placement of the child in  
86 a home or other residence maintained by a private provider. ~~No~~ The department shall not provide  
87 a notice ~~may be provided~~ pursuant to this provision to any parent or parent's attorney whose  
88 parental rights have been terminated pursuant to this article.

89 (i) Nothing in this article precludes any party from petitioning the court for review of the  
90 child's case at any time. The court shall grant the petition upon a showing that there is a change  
91 in circumstance or needs of the child that warrants court review.

92 (j) Any foster parent, pre-adoptive parent, or relative providing care for the child shall be  
93 given notice of and the right to be heard at the permanency hearing provided in this section.

94 (k) Once an adoption case is assigned to a child placing agency, all related court hearing  
95 notices shall be sent to the child placing agency as an interested party.

96 (l) A court may, at its discretion, continue any hearing scheduled pursuant to this section,  
97 or a party may file a written motion for a continuance, which a court may grant for good cause  
98 shown: *Provided*, That when a court grants a continuance, the court shall enter an order granting  
99 the continuance, specifying a future date when the hearing will be held, and providing the specific  
100 factual basis for granting the continuance. If the court finds that the continuance was the result of  
101 any attorney, party, or guardian ad litem not satisfying a previous court order, the court shall direct  
102 that the clerk of the court provide to the Public Defender Services a properly redacted certified  
103 order reflecting the court's findings of fact for the purposes of reporting to the Legislature findings.

**§49-4-610. Improvement periods in cases of child neglect or abuse; findings; orders;  
extensions; hearings; time limits.**

1 In any proceeding brought pursuant to this article, the court may grant any respondent an  
2 improvement period in accord with this article. During the period, the court may require temporary  
3 custody with a responsible person ~~which has been~~ found to be a fit and proper person for the  
4 temporary custody of the child or children or the ~~state~~ department or other agency during the  
5 improvement period. An order granting an improvement period shall require the department to  
6 prepare and submit to the court a family case plan in accordance with ~~section four hundred eight,~~  
7 ~~of this article~~ §49-4-408 of this code. The types of improvement periods are as follows:

8 ~~(4)~~ (a) *Pre-adjudicatory improvement period.* —

9 (1) A court may grant a respondent an improvement period ~~of a period~~ not to exceed three  
10 months prior to making a finding that a child is abused or neglected pursuant to ~~section six~~  
11 ~~hundred one of this article~~ §49-4-601 of this code only when:

12 (A) The respondent files a written motion requesting the improvement period; and

13 (B) The respondent demonstrates, by clear and convincing evidence, that the respondent  
14 is likely to fully participate in the improvement period and the court further makes a finding, on the  
15 record, of the terms of the improvement period.

16 (2) The order for the improvement period shall meet the following requirements:

17 ~~(C)~~ (A) In the order granting the improvement period, the court:

18 (i) Orders that a hearing be held to review the matter within 60 days of the granting of the  
19 improvement period; or

20 (ii) Orders that a hearing be held to review the matter within 90 days of the granting of the  
21 improvement period and that the department submit a report as to the respondent's progress in  
22 the improvement period within 60 days of the order granting the improvement period; ~~and~~

23 ~~(D)~~ (B) The order granting the improvement period requires the department to prepare  
24 and submit to the court an individualized family case plan in accordance with ~~section four hundred~~  
25 ~~eight of this article~~ §49-4-408 of this code; and

26 (C) The order granting a pre-adjudicatory improvement period shall outline the duties,  
27 obligations, and responsibilities of the guardian ad litem throughout the duration of the pre-  
28 adjudicatory improvement period, including any case-specific requirements that the court may  
29 order.

30 ~~(2)(b)~~ *Post-adjudicatory improvement period. —*

31 (1) After finding that a child is an abused or neglected child pursuant to ~~section six hundred~~  
32 ~~one of this article~~ §49-4-601 of this code, a court may grant a respondent an improvement period  
33 not to exceed six months when:

34 (A) The respondent files a written motion requesting the improvement period;

35 (B) The respondent demonstrates, by clear and convincing evidence, that the respondent  
36 is likely to fully participate in the improvement period and the court further makes a finding, on the  
37 record, of the terms of the improvement period; and

38 (C) Since the initiation of the proceeding, the respondent has not previously been granted  
39 any improvement period, or the respondent demonstrates that since the initial improvement period  
40 the respondent has experienced a substantial change in circumstances. Further, the respondent  
41 shall demonstrate that due to that change in circumstances the respondent is likely to fully  
42 participate in a further improvement period.

43 (2) The order for the improvement period shall meet the following requirements:

44 ~~(C)~~ (A) In the order granting the improvement period, the court:

45 (i) ~~orders~~ Orders that a hearing be held to review the matter within ~~thirty~~ 30 days of the  
46 granting of the improvement period; or

47 (ii) ~~orders~~ Orders that a hearing be held to review the matter within ~~ninety~~ 90 days of the  
48 granting of the improvement period and that the department submit a report as to the respondent's  
49 progress in the improvement period within 60 days of the order granting the improvement period;

50 ~~(D) Since the initiation of the proceeding, the respondent has not previously been granted~~  
51 ~~any improvement period or the respondent demonstrates that since the initial improvement period,~~  
52 ~~the respondent has experienced a substantial change in circumstances. Further, the respondent~~  
53 ~~shall demonstrate that due to that change in circumstances the respondent is likely to fully~~  
54 ~~participate in a further improvement period; and~~

55 ~~(E)~~ (B) The order granting the improvement period requires the department to prepare and  
56 submit to the court an individualized family case plan in accordance with ~~section four hundred~~  
57 ~~eight of this article~~ §49-4-408 of this code; and

58 (C) The order granting a post-adjudicatory improvement period shall outline the duties,  
59 obligations, and responsibilities of the guardian ad litem throughout the duration of the post-  
60 adjudicatory improvement period, including any case specific requirements that the court may  
61 order.

62 ~~(3)~~ (c) *Post-dispositional improvement period.* —

63           (1) The court may grant an improvement period not to exceed six months as a disposition  
64 pursuant to ~~section six hundred four of this article~~ §49-4-604 of this code when:

65           (A) The respondent moves in writing for the improvement period;

66           (B) The respondent demonstrates, by clear and convincing evidence, that the respondent  
67 is likely to fully participate in the improvement period and the court further makes a finding, on the  
68 record, of the terms of the improvement period; and

69           (C) Since the initiation of the proceeding, the respondent has not previously been granted  
70 any improvement period, or the respondent demonstrates that since the initial improvement period  
71 the respondent has experienced a substantial change in circumstances. Further, the respondent  
72 shall demonstrate that due to that change in circumstances, the respondent is likely to fully  
73 participate in the improvement period.

74           (2) The order for the improvement period shall meet the following requirements:

75           ~~(C)~~ (A) In the order granting the improvement period, the court:

76           (i) Orders that a hearing be held to review the matter within 60 days of the granting of the  
77 improvement period; or

78           (ii) Orders that a hearing be held to review the matter within ~~ninety~~ 90 days of the granting  
79 of the improvement period and that the department submit a report as to the respondent's  
80 progress in the improvement period within 60 days of the order granting the improvement period;

81           ~~(D) Since the initiation of the proceeding, the respondent has not previously been granted~~  
82 ~~any improvement period or the respondent demonstrates that since the initial improvement period,~~  
83 ~~the respondent has experienced a substantial change in circumstances. Further, the respondent~~  
84 ~~shall demonstrate that due to that change in circumstances, the respondent is likely to fully~~  
85 ~~participate in the improvement period; and~~

86           ~~(E)~~ (B) The order granting the improvement period shall require the department to prepare  
87 and submit to the court an individualized family case plan in accordance with ~~section four hundred~~  
88 ~~eight of this article~~ §49-4-408 of this code; and

89            (C) The order granting a post-dispositional improvement period shall outline the duties,  
90 obligations, and responsibilities of the guardian ad litem throughout the duration of the post-  
91 dispositional improvement period, including any case specific requirements that the court may  
92 order.

93            ~~(4)~~ (d) *Responsibilities of the respondent receiving improvement period.* —

94            (A) When any improvement period is granted to a respondent pursuant to this section, the  
95 respondent ~~shall be~~ is responsible for the initiation and completion of all terms of the improvement  
96 period. The court may order the ~~state~~ department to pay expenses associated with the services  
97 provided during the improvement period when the respondent has demonstrated that he or she  
98 is unable to bear the expenses.

99            (B) When any improvement period is granted to a respondent pursuant to this section, the  
100 respondent shall execute a release of all medical information regarding that respondent, including,  
101 but not limited to, information provided by mental health and substance abuse professionals and  
102 facilities. The release shall be accepted by a professional or facility regardless of whether the  
103 release conforms to any standard required by that facility.

104            ~~(5)~~ (e) *Responsibilities of the department during improvement period.* — When any  
105 respondent is granted an improvement period pursuant to this article, the department shall  
106 monitor the progress of the person in the improvement period. This section may not be construed  
107 to prohibit a court from ordering a respondent to participate in services designed to reunify a family  
108 or to relieve the department of any duty to make reasonable efforts to reunify a family required by  
109 state or federal law.

110            (f) Responsibilities of the guardian ad litem during improvement period. — When any  
111 respondent is granted an improvement period pursuant to this article, the guardian ad litem shall  
112 maintain regular in-person contact with the minor child, or children, and fully adhere to and satisfy  
113 the obligations, duties, responsibilities, and requirements of all court orders, the Rules of

114 Procedure for Child Abuse and Neglect Proceedings, the Rules of Professional Conduct, and any  
115 other rules promulgated by the Supreme Court of Appeals, including any appendices therein.

116 ~~(6)~~ (g) *Extension of improvement period.* — A court may extend any improvement period  
117 granted pursuant to subdivision ~~(2)~~ (b) or ~~(3)~~ (c) of this section for a period not to exceed three  
118 months when the court finds that the respondent has substantially complied with the terms of the  
119 improvement period, that the continuation of the improvement period will not substantially impair  
120 the ability of the department to permanently place the child, and that the extension is otherwise  
121 consistent with the best interest of the child.

122 ~~(7)~~ (h) *Termination of improvement period.* — Upon ~~the~~ motion by any party, the court  
123 shall terminate any improvement period granted pursuant to this section when the court finds that  
124 the respondent has failed to fully participate in the terms of the improvement period or has  
125 satisfied the terms of the improvement period to correct any behavior alleged in the petition or  
126 amended petition to make his or her child unsafe.

127 ~~(8)~~ (i) *Hearings on improvement period.* —

128 (A) Any hearing scheduled pursuant to this section may be continued only for good cause  
129 upon a written motion properly served on all parties. When a court grants a continuance, the court  
130 shall enter an order granting the continuance specifying a future date when the hearing will be  
131 held, and provide the specific factual basis for granting the continuance. If the court finds that the  
132 continuance was the result of any attorney, party, or guardian ad litem not satisfying a previous  
133 court order, the court shall direct that the clerk of the court provide to the Public Defender Services  
134 a properly redacted certified order reflecting the court's findings of fact for the purposes of  
135 reporting to the Legislature findings.

136 (B) Any hearing to be held at the end of an improvement period shall be held as nearly as  
137 practicable on successive days, ~~and~~ shall be held as close in time as possible after the end of the  
138 improvement period and shall be held no later than 30 days of the termination of the improvement  
139 period.

140           ~~(9)~~ (j) *Time limit for improvement periods.* — Notwithstanding any other provision of this  
141 section, ~~ne~~ a combination of any improvement periods or extensions thereto may not cause a  
142 child to be in foster care more than 15 ~~months~~ of the most recent 22 months, unless the court  
143 finds compelling circumstances by clear and convincing evidence that it is in the child's best  
144 interests to extend the time limits contained in this paragraph.