

# **WEST VIRGINIA LEGISLATURE**

## **2026 REGULAR SESSION**

**Introduced**

### **House Bill 4749**

By Delegates Worrell and Hite

[Introduced January 22, 2026; referred to the

Committee on the Judiciary]

1 A BILL to amend and reenact §49-2-126 of the Code of West Virginia, 1931, relating to adding  
2 requirements to the foster child bill of rights.

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

**ARTICLE 2. STATE RESPONSIBILITIES FOR CHILDREN.**

**§49-2-126. The Foster Child Bill of Rights.**

1 (a) Foster children and children in a kinship placement are active and participating  
2 members of the child welfare system and have the following rights:

3 (1) The right to live in a safe and healthy environment, and the least restrictive environment  
4 possible;

5 (2) The right to be free from physical, sexual, or psychological abuse or exploitation  
6 including being free from unwarranted physical restraint and isolation.

7 (3) The right to receive adequate and healthy food, appropriate and seasonally necessary  
8 clothing, and an appropriate travel bag;

9 (4) The right to receive medical, dental, and vision care, mental health services, and  
10 substance use treatment services, as needed;

11 (5) The right to be placed in a kinship placement, when such placement meets the  
12 objectives set forth in this article;

13 (6) The right, when placed with a foster or kinship family, to be matched as closely as  
14 possible with a family meeting the child's needs, including, when possible, the ability to remain  
15 with siblings;

16 (7) The right, as appropriate to the child's age and development, to be informed on any  
17 medication or chemical substance to be administered to the child;

18 (8) The right to communicate privately, with caseworkers, guardians ad litem, attorneys,  
19 Court Appointed Special Advocates (CASA), the prosecuting attorney, and probation officers;

20 (9) The right to have and maintain contact with siblings as may be reasonably  
21 accommodated, unless prohibited by court order, the case plan, or other extenuating

22 circumstances;

23 (10) The right to contact the department or the foster care ombudsman, regarding  
24 violations of rights, to speak to representatives of these offices confidentially, and to be free from  
25 threats, retaliation, or punishment for making complaints;

26 (11) The right to maintain contact with all previous caregivers and other important adults in  
27 his or her life, if desired, unless prohibited by court order or determined by the parent, according to  
28 the reasonable and prudent parent standard, not to be in the best interests of the child;

29 (12) The right to participate in religious services and religious activities of his or her choice  
30 to the extent possible;

31 (13) The right to attend school, and, consistent with the finances and schedule of the foster  
32 or kinship family, to participate in extracurricular, cultural, and personal enrichment activities, as  
33 appropriate to the child's age and developmental level;

34 (14) The right to work and develop job skills in a way that is consistent with the child's age  
35 and developmental level;

36 (15) The right to attend Independent Living Program classes and activities if the child  
37 meets the age requirements;

38 (16) The right to attend court hearings and speak directly to the judge, in the court's  
39 discretion;

40 (17) The right not to be subjected to discrimination or harassment;

41 (18) The right to have access to information regarding available educational options;

42 (19) The right to receive a copy of, and receive an explanation of, the rights set forth in this  
43 section from the child's guardian ad litem, caseworker, and attorney;

44 (20) The right to receive care consistent with the reasonable and prudent foster parent  
45 standard; and

46 (21) The right to meet with the child's department case worker no less frequently than  
47 every 30 days.

48        (22) (A) The right to proper notice of when a hearing pursuant to this chapter where the  
49        outcome may affect the child is to occur, when the child is 13 years of age or older. The child's  
50        guardian ad litem or legal counsel shall inform them of what may occur during the hearing and ask  
51        them if they would like to attend.

52        (23) The right to attend a hearing pursuant to this chapter where the outcome may affect  
53        the child, when the child is 13 years of age or older. The guardian ad litem or legal counsel shall  
54        inform the child that in attending the hearing he or she may hear things that could cause distress  
55        but may not attempt to dissuade the child from attending.

56        (24) The right to have the outcome of any hearing pursuant to this chapter where the  
57        outcome impacted the child, explained to the child by their guardian ad litem or legal counsel.

58        (b) The rights provided in this section do not create an independent cause of action.  
59        Violations of these rights may be reported to and investigated by the foster care ombudsman. On  
60        or before December 15, 2021 and on or before December 15 of every year thereafter, the foster  
61        care ombudsman shall submit a written summary of the number and nature of reports received,  
62        and investigations conducted in response to said reports, to the Joint Standing Committee on  
63        Government and Finance, the West Virginia Supreme Court of Appeals, and the Governor:  
64        *Provided*, That the summary required by this section may not include any personally identifying  
65        information of a person named in a report, or a person submitting a report to, the ombudsman.

NOTE: The purpose of this bill is to guarantee that foster children age 13 and older are notified of and supported in attending court hearings that affect them, with counsel present and an explanation of the outcome provided afterward.

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