

# **WEST VIRGINIA LEGISLATURE**

## **2026 REGULAR SESSION**

**Introduced**

### **Senate Bill 153**

By Senator Rucker

[Introduced January 14, 2026; referred  
to the Committee on Health and Human Resources;  
and then to the Committee on the Judiciary]

1 A BILL to amend and reenact §49-2-113 of the Code of West Virginia, 1931, as amended, relating  
2 to drop-in child care services; and requiring background checks for drop-in child care  
3 services.

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

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

### **§49-2-113. Residential child-care centers; drop-in child-care; licensure, certification, approval, and registration; requirements.**

1 (a) Any person, corporation, or child welfare agency, other than a state agency, which  
2 operates a residential child-care center shall obtain a license from the department.

3 (b) Any residential child-care facility, day-care center, or any child-placing agency operated  
4 by the state shall obtain approval of its operations from the secretary.

5 (c) Any family day-care facility which operates in this state, including family day-care  
6 facilities approved by the department for receipt of funding, shall obtain a statement of certification  
7 from the department.

8 (d) Every family day-care home which operates in this state, including family day-care  
9 homes approved by the department for receipt of funding, shall obtain a certificate of registration  
10 from the department. The facilities and placing agencies shall maintain the same standards of care  
11 applicable to licensed facilities, centers, or placing agencies of the same category.

12 (e) Any person, corporation, or business facility which offers drop-in child-care services for  
13 brief periods of time while parents are shopping, engaging in recreational activities, attending  
14 religious services, or engaging in other business or personal affairs shall maintain the same  
15 standards of care applicable to licensed facilities, centers, or placing agencies and shall perform  
16 state and federal background checks on all volunteers and staff.

17 For purposes of this section, "Drop-in child- care" means a child-care arrangement where  
18 care is provided while parents participate in activities that are not employment related, and where  
19 the parents are on the premises or otherwise easily accessible.

20 ~~(e)~~ (f) This section does not apply to:

21 (1) A kindergarten, preschool, or school education program which is operated by a public  
22 school or which is accredited by the West Virginia Department of Education or any other  
23 kindergarten, preschool, or school programs which operate with sessions not exceeding four  
24 hours per day for any child;

25 ~~(2) An individual or facility which offers occasional care of children for brief periods while~~  
26 ~~parents are shopping, engaging in recreational activities, attending religious services, or engaging~~  
27 ~~in other business or personal affairs;~~

28 ~~(3)~~ (2) Summer recreation camps operated for children attending sessions for periods not  
29 exceeding 30 days;

30 ~~(4)~~ (3) Hospitals or other medical facilities which are primarily used for temporary  
31 residential care of children for treatment, convalescence, or testing;

32 ~~(5)~~ (4) Persons providing family day care solely for children related to them;

33 ~~(6)~~ (5) Any juvenile detention facility or juvenile correctional facility operated by or under  
34 contract with the Division of Corrections and Rehabilitation for the secure housing or holding of  
35 juveniles committed to its custody;

36 ~~(7)~~ (6) Any out-of-school time program that has been awarded a grant by the West Virginia  
37 Department of Education to provide out-of-school time programs to kindergarten through 12th  
38 grade students when the program is monitored by the West Virginia Department of Education;

39 ~~(8)~~ (7) Any out-of-school time program serving children six years of age or older and meets  
40 all of the following requirements, or is an out-of-school time program that is affiliated and in good  
41 standing with a national congressionally chartered organization or is an out-of-school time,  
42 summer recreation camp, or day camp program operated by a county parks and recreation  
43 commission, boards, and municipalities and meets all of the following requirements:

44 (A) The program is located in a facility that meets all fire and health codes;

45 (B) The program performs state and federal background checks on all volunteers and staff;

(C) The program's primary source of funding is not from fees for service except for programs operated by county parks and recreation commissions, boards, and municipalities; and

(D) The program has a formalized monitoring system in place; or

~~(9)~~ (8) Any kindergarten, preschool, or school education program which is operated by a private, parochial, or church school that is recognized by the West Virginia Department of Education under Policy 2330.

~~(f)~~ (g) The secretary is authorized to issue an emergency rule relating to conducting a survey of existing facilities in this state in which children reside on a temporary basis in order to ascertain whether they should be subject to licensing under this article or applicable licensing provisions relating to behavioral health treatment providers.

~~(g)~~ (h) Any informal family child-care home or relative family child-care home may voluntarily register and obtain a certificate of registration from the department.

~~(h)~~ (i) All facilities or programs that provide out-of-school time care shall register with the department upon commencement of operations and on an annual basis thereafter. The department shall obtain information such as the name of the facility or program, the description of the services provided, and any other information relevant to the determination by the department as to whether the facility or program meets the criteria for exemption under this section.

~~(i)~~ (j) Any child-care service that is licensed or receives a certificate of registration shall have a written plan for evacuation in the event of fire, natural disaster, or other threatening situation that may pose a health or safety hazard to the children in the child-care service.

(1) The plan shall include, but not be limited to:

(A) A designated relocation site and evacuation;

(B) Procedures for notifying parents of the relocation and ensuring family reunification;

(C) Procedures to address the needs of individual children including children with special needs;

(D) Instructions relating to the training of staff or the reassignment of staff duties, as

72 appropriate;

73 (E) Coordination with local emergency management officials; and

74 (F) A program to ensure that appropriate staff are familiar with the components of the plan.

75 (2) A child-care service shall update the evacuation plan by December 31 of each year. If a  
76 child-care service fails to update the plan, no action shall be taken against the child-care services  
77 license or registration until notice is provided and the child-care service is given 30 days after the  
78 receipt of notice to provide an updated plan.

79 (3) A child-care service shall retain an updated copy of the plan for evacuation and shall  
80 provide notice of the plan and notification that a copy of the plan will be provided upon request to  
81 any parent, custodian, or guardian of each child at the time of the child's enrollment in the child-  
82 care service and when the plan is updated.

83 (4) All child-care centers and family child-care facilities shall provide the plan and each  
84 updated copy of the plan to the Director of the Office of Emergency Services in the county where  
85 the center or facility is located.

86 ~~(j)~~ (k) A residential child-care center which has entered into a contract with the department  
87 to provide services to a certain number of foster children, shall accept any foster child who meets  
88 the residential child-care center's program criteria, if the residential child-care center has not met  
89 its maximum capacity as provided for in the contract. Any residential child-care center which has  
90 entered into a contract with the department may not discharge any child in its program, except as  
91 provided in the contract, including that if the youth does not meet the residential treatment level  
92 and target population, the provider shall request a MDT and work toward an alternative placement.

NOTE: The purpose of this bill is to provide background checks for drop-in child-care services.

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