

WEST VIRGINIA LEGISLATURE

2026 REGULAR SESSION

Introduced

Senate Bill 523

By Senators Deeds, Grady, M. Maynard, Roberts, and

Tarr

[Introduced January 20, 2026; referred
to the Committee on the Judiciary]

1 A BILL to amend and reenact §49-4-605 and §49-4-610 of the Code of West Virginia, 1931, as
2 amended, relating to increasing circumstances where the Department of Human Services
3 is required to seek termination of parental rights; and increasing circumstances where the
4 time limit for a respondent parent's improvement period, or combination or extension of the
5 respondent parent's improvement period, applies.

Be it enacted by the Legislature of West Virginia:

ARTICLE 4. COURT ACTIONS.

§49-4-605. When department efforts to terminate parental rights are required.

1 (a) Except as provided in §49-4-605(b) of this code, the department shall file or join in a
2 petition or otherwise seek a ruling in any pending proceeding to terminate parental rights:

3 (1) If a child has been in any of the following placements: foster care, kinship placement,
4 residential facility, or the care of a non-offending parent for 15 of the most recent 22 months as
5 determined by the earlier of the date of the first judicial finding that the child is subjected to abuse
6 or neglect or the date which is 60 days after the child is removed from the home;

7 (2) If a court has determined the child is abandoned, tortured, sexually abused, or
8 chronically abused;

9 (3) If a court has determined the parent has committed murder or voluntary manslaughter
10 of another of his or her children, another child in the household, or the other parent of his or her
11 children; has attempted or conspired to commit murder or voluntary manslaughter or has been an
12 accessory before or after the fact of either crime; has committed unlawful or malicious wounding
13 resulting in serious bodily injury to the child or to another of his or her children, another child in the
14 household or to the other parent of his or her children; has committed sexual assault or sexual
15 abuse of the child, the child's other parent, guardian or custodian, another child of the parent or
16 any other child residing in the same household or under the temporary or permanent custody of
17 the parent; or the parental rights of the parent to another child have been terminated involuntarily;
18 or

(4) If a parent whose child has been removed from the parent's care, custody, and control by an order of removal voluntarily fails to have contact or attempt to have contact with the child for a period of 18 consecutive months: *Provided*, That failure to have, or attempt to have, contact due to being incarcerated, being in a medical or drug treatment or recovery facility, or being on active military duty shall not be considered voluntary behavior.

(b) The department may determine not to file a petition to terminate parental rights when:

(1) At the option of the department, the child has been placed permanently with a relative by court order;

(2) The department has documented in the case plan made available for court review a compelling reason, including, but not limited to, the child's age and preference regarding termination or the child's placement in custody of the department based on any proceedings initiated under part seven of this article, that filing the petition would not be in the best interests of the child; or

(3) The department has not provided, when reasonable efforts to return a child to the family are required, the services to the child's family as the department deems necessary for the safe return of the child to the home.

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

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

(1) *Preadjudicatory improvement period*. -- A court may grant a respondent an

improvement period of a period not to exceed three months prior to making a finding that a child is abused or neglected pursuant to ~~section six hundred one of this article~~ §49-4-601 of this code only when:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(3) *Post-dispositional improvement period.* – The court may grant an improvement period not to exceed six months as a disposition pursuant to ~~section six hundred four of this article~~ §49-4-604 of this code when:

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

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

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

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

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

(D) Since the initiation of the proceeding, the respondent has not previously been granted

any improvement period or the respondent demonstrates that since the initial improvement period, the respondent has experienced a substantial change in circumstances. Further, the respondent shall demonstrate that due to that change in circumstances, the respondent is likely to fully participate in the improvement period; and

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

(4) Responsibilities of the respondent receiving improvement period. --

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

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

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

(6) Extension of improvement period. -- A court may extend any improvement period granted pursuant to subdivision (2) or (3) of this section for a period not to exceed three months

when the court finds that the respondent has substantially complied with the terms of the improvement period; that the continuation of the improvement period will not substantially impair the ability of the department to permanently place the child; and that the extension is otherwise consistent with the best interest of the child.

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

(8) *Hearings on improvement period.* --

(A) Any hearing scheduled pursuant to this section may be continued only for good cause upon a written motion properly served on all parties. When a court grants a continuance, the court shall enter an order granting the continuance specifying a future date when the hearing will be held.

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

(9) *Time limit for improvement periods.* -- Notwithstanding any other provision of this section, no combination of any improvement periods or extensions thereto may cause a child to be in any of the following placements: foster care, kinship placement, residential facility, or the care of a non-offending parent more than 15 months of the most recent 22 months, unless the court finds compelling circumstances by clear and convincing evidence that it is in the child's best interests to extend the time limits contained in this paragraph.

NOTE: The purpose of this bill is to expand when the Department of Human Services must seek termination of parental rights and by limiting the total duration of parental improvement periods while a child remains in out-of-home placement.

This bill has been recommended for introduction by the Joint Committee on Children and Families.

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