

# **WEST VIRGINIA LEGISLATURE**

## **2024 REGULAR SESSION**

**Introduced**

### **House Bill 4798**

By Delegates Summers, Steele, Miller, Kimble, Petitto  
and Griffith

[Introduced January 16, 2024; Referred to the  
Committee on Senior, Children, and Family Issues  
then the Judiciary]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a section,  
2 designated §49-2-127b, relating to caretaker's rights.

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

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

**§49-2-127b. Information regarding parent or caretaker's rights.**

1 (a) A parent or caretaker has the right to receive certain information regarding their rights at  
2 the initial point of contact during a child protective investigation.

3 (1) At the initial point of contact with a parent or caretaker, child protective services shall  
4 orally and in writing disseminate information regarding the parent or caretaker's rights during the  
5 investigation and shall document in the case record that such information has been provided to the  
6 parent or caretaker. The information shall include, but need not be limited to, the following  
7 information:

8 (A) The parent or caretaker is not required, unless court ordered, to permit the child  
9 protective services representative to enter the residence of the parent or caretaker;

10 (B) The parent or caretaker who is the subject of the investigation is entitled to be informed  
11 of the allegations being investigated;

12 (C) The parent or caretaker is not required, unless court ordered, to speak with the child  
13 protective services representative, and any statement made by the parent, caretaker or other  
14 family member may be used against the parent or caretaker in an administrative or court  
15 proceeding;

16 (D) The parent or caretaker is entitled to seek the advice of an attorney and to have an  
17 attorney present when the parent or caretaker is questioned by a child protective representative;

18 (E) The parent or caretaker is not required, unless court ordered, to allow a child protective  
19 services representative to interview or examine a child;

20 (F) The parent or caretaker is not required, unless court ordered, to agree to any requests  
21 made by a child protective services representative, including, but not limited to, requests to sign a

22 release of information, to take a drug or alcohol test, or to submit to a mental health evaluation;

23 (G) The parent or caretaker is entitled to an attorney;

24 (H) Contact information for resources which may be available to parents and caretakers  
25 during a child protective services investigation, including legal services from a designated  
26 organization.

27 (b) If at the initial point of contact with the parent or caretaker the child protective services  
28 worker has reasonable cause to believe that exigent circumstances exist that present an imminent  
29 danger to the child's life or health and there is no time to seek a court order, the child protective  
30 services worker shall take all lawful measures necessary to protect the child's life or health prior to  
31 disseminating information regarding the parent or caretaker's rights.

NOTE: The purpose of this bill is to inform a caretaker of his or her rights at the initial point of contact during a child protective investigation.

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