

(Note from Bob Noone: This is the proposed law that we discussed on 12/6/25 on Facebook Live at [www.facebook.com/adoption.now](https://www.facebook.com/adoption.now) with the authors, Linda Foster and Jeannie Nibert. It was proposed in 2025, but while the house easily passed it, the Senate altered it greatly and failed to pass it. It will be reintroduced in the 2026 term.)

## **PROPOSED LAW - Hair Follicle Drug Screen Requirements**

**POLICY:** Within 48 hours of substantiated child abuse or neglect of a minor, a parent, guardian, or other caretaker who is the subject of a child abuse and neglect investigation, before any unsupervised visitation, and/or before children are returned to the care, custody and control of said parent, guardian, or other caretaker, shall submit to a CPS directive or a Court Order to have a 90 day 12 panel hair follicle drug test. Said hair follicle test shall be conducted post investigation to validate any prior urine or blood screen test results. If the parent, guardian, or other caretaker test positive for any illegal drugs or drugs for which they have no prescription, then the minor children shall also be hair follicle drug tested, including intrauterine fetuses using the best technology at the time.

A 90 day 12 panel hair follicle drug test will be completed for the following reasons:

- 1) To ensure that the parent, guardian, or other caretaker has met the burden of proof required in an abuse and neglect case by removing any doubt of urine screen cheating.
- 2) To eliminate sole reliability on urine, oral swab, or blood screening because several forms of cheating on these tests are readily available in an on-line search.
- 3) To bring uniformity regarding child abuse and neglect cases to all West Virginia Counties.
- 4) To assist the Court and CPS in determining what is in the best interest of children during the period(s) of improvement and/or disposition of a case by considering the rights of children to be safe as well as parental rights.
- 5) To protect all children against abuse or serious bodily injury, including death.
- 6) To return children to the home of the parent, guardian, or other caretaker ensuring the trajectory of a child's future.
- 7) Hair follicle drug testing is easily the least intrusive test method. It costs more than urine or swab tests, but its extreme accuracy outweighs the cost factor.
- 8) To reduce generational drug abuse, thus reducing cost to tax payers.
- 9) To reduce the burden to taxpayers by encouraging parents, guardians, or other caretakers to seek proper CPS approved or Court approved rehabilitation suitable to their particular drug use and history.

**PROCEDURE:** A 90 day 12 panel hair follicle drug test shall be conducted at the request of CPS or by Order of the Court upon a substantiated determination of child abuse or neglect in which the use of illegal substances or substances for which a person has no prescription is an issue.

- 10) A 90 day 12 panel hair follicle drug test shall be conducted;
  - a. Upon a finding by CPS or Court that child abuse and/or neglect is substantiated;
  - b. Before any unsupervised visitation with a parent, guardian, or other caretaker who has been substantiated as committing child abuse and/or neglect.

- c. Before the children are returned to the care, custody and control of a parent, guardian, or other caretaker in any case where child abuse and/or neglect has been substantiated.
- 11) Any child that is subject to a child abuse and/or neglect case in which the parent, guardian, or other caretaker has tested positive for drugs in a hair follicle test, shall also be hair follicle tested within 48 hours of the parent, guardian, or other caretaker testing positive.
  - 12) For any child 12 months of age or younger, the child's birth records shall be obtained to determine if there was intrauterine drug exposure or a finding of Neonatal Abstinence Syndrome (NAS).
  - 13) If any minor child, has been exposed to drugs as proven by the child's hair follicle test, either before or after birth, then a neurological examination by a pediatric neurologist shall be immediately ordered and scheduled by CPS.
  - 14) Any attempted alteration of any drug test results by the parent, guardian or other caretaker subject to a child abuse and/or neglect investigation or court case shall be considered a positive drug test. In the case of hair follicle testing, this includes, shaving, coloring, bleaching, or any other method of altering the test.
  - 15) Failure to comply with CPS directive or Court Ordered hair follicle testing within 48 hours shall be considered noncompliance and an automatic positive drug test by CPS and the Court.
  - 16) All hair follicle drug test results shall be reported to all members of the MDT, the child's primary medical provider, CPS, and the Court.