

# “LIGHTS, CAMERA, ACTION!”

Ever Wonder What It's Like  
To Be In an Abuse and Neglect Hearing?

A CPS Court Case Overview + Mock Hearing



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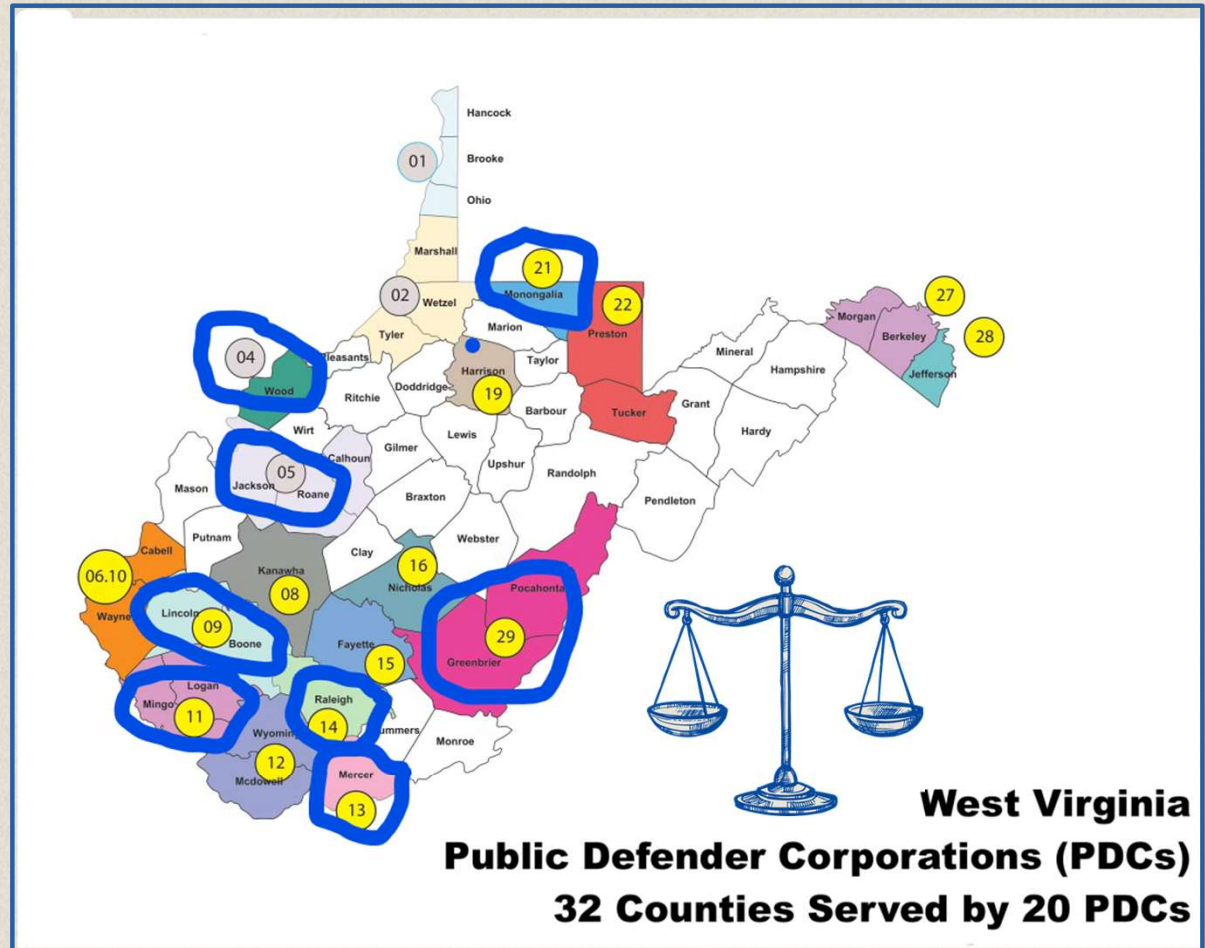
TAKEAWAYS and  
QUESTIONS



# PDCs and Title IV-Es

## Title IV-E funding for Abuse and Neglect Cases

- Title IV-E of the Social Security Act.
- Eight attorneys: Parkersburg, Ripley, Princeton, Beckley, Lewisburg, Morgantown, Boone/Lincoln, and Williamson. Clarksburg in ~2024 and earlier.
- Eight PRNs (Parent Resource Navigators).
- Attorneys and PRNs can pinch-hit and work on other cases.
- Abuse and Neglect cases are much more involved than typical PD cases.



01



## OVERVIEW

- **Civil cases (not criminal).**
- **Confidential and closed to the public.**
- **Best outcome: case dismissed + family reunited.**
- **Worst outcome: termination of parental rights.**
- **Cases may last 18 months.**
- **All parents, custodians and children who are named parties get a court-appointed attorney.**

# SOURCES

## WV Code

Chapter 49 of the West Virginia State Code, statutes §49-1-101 through §49-12-5.

## WV Judicial Benchbook for Abuse & Neglect

Guide for judges and attorneys on policy and procedures.

## WV Rules of Procedure for Abuse and Neglect

55 rules

## WV DHS CPS Policy Manual

Gives guidance to CPS workers.

## Case Law

Supreme Court of Appeals of West Virginia cases and U.S. Supreme Court cases.

## Secondary Resource(s)

Books and Continuing Legal Education.

Also: Going to court to see what happens.





**02**

## **THE BASICS**

# Chapter 49: Child Welfare

W.Va. Code §49-1-101 to § 49-12-5

## Chapter-Article-Section Chapter 49-Article 1-Section 101

Chapter 49 has 12 Articles:

Article 1, General Provisions and Defs.

Article 2, State Responsibilities for Children

Article 3, Specialized Advocacy Programs

## Article 4, Court Actions.

### §49-4-101 to §49-4-904

Article 5, Record Keeping and Database

Article 6, Missing Children Info. Act

Article 7, Interstate Cooperation

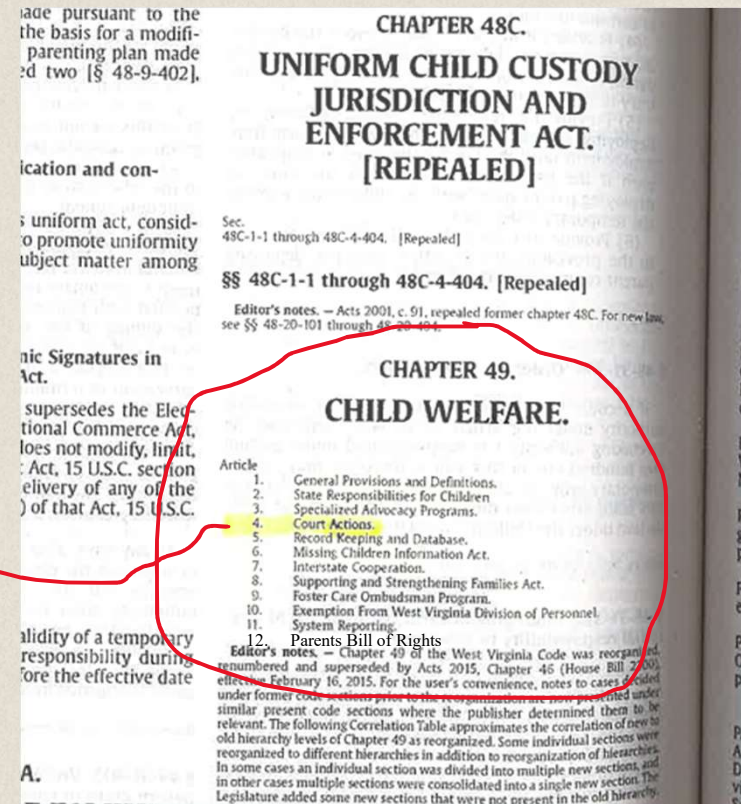
Article 8, Supporting and Strengthening Families Act

Article 9, Foster Care Ombudsman Program

Article 10, Exemption From WV Div. of Personnel

Article 11, System Reporting

Article 12, Parents' Bill of Rights



# Chapter 49, Article 4: Court Actions

**"Court Actions"**  
(Article 4) has  
**nine parts,**  
starting with  
**W.Va. Code**  
**§49-4-101** and  
ending at  
**§49-4-904.**



477 COURT ACTIONS § 49-3

(1) Standards: CASA programs shall be members in good standing with the West Virginia Court Appointed Special Advocate Association, Inc. and the National Court Appointed Special Advocates Association and adhere to all standards set forth by these entities.

(2) Organizational capacity: A designated legal entity is responsible for program and fiscal operations has been established and implements basic sound administrative practice.

(3) Cultural competency and diversity: CASA programs shall promote policies, practices and procedures that are culturally competent. "Cultural competency" is defined as the capacity to function in more than one culture, requiring the ability to appreciate, understand and interact with members of diverse populations within the local community.

(4) Case management: CASA programs must utilize a uniform case management system to monitor case progress and track outcomes.

(5) Case review: CASA volunteers shall meet with CASA staff on a routine basis to discuss case status and outcomes.

(6) Training: Court appointed special advocates shall serve as volunteers without compensation and shall receive training consistent with state and nationally developed standards.

History: 2015, c. 46, effective February 16, 2015.

Editor's notes. — Chapter 49 of the West Virginia Code was reorganized, numbered and superseded by Acts 2015, Chapter 46 (House Bill 2200), effective February 16, 2015. See Correlation Table at the beginning of Chapter 49 as reorganized by 2015 c. 46.

**ARTICLE 4.**  
**COURT ACTIONS.**

**Part I. General Provisions.**

§ 49-4-101. Exercise of powers and jurisdiction by judge in vacation.

§ 49-4-102. Procedure for appealing decisions.

§ 49-4-103. Proceedings may not be evidence against child, or be published; adjudication is not a conviction and not a bar to civil service eligibility.

§ 49-4-104. General provisions relating to court orders regarding custody; rules.

§ 49-4-105. Hearings required to determine "reasonable efforts."

§ 49-4-106. Limitation on out-of-home placements.

§ 49-4-107. Penalties.

§ 49-4-108. Payment of services.

§ 49-4-109. Guardianship of estate of child unafflicted.

§ 49-4-110. Foster care; quarterly status review; transitioning adults; annual permanency hearings.

§ 49-4-111. Criteria and procedure for temporary removal of child from foster home; foster care arrangement termination; notice of child's availability for placement; adoption; sibling placements; limitations.

§ 49-4-112. Subsidized adoption and legal guardianship; conditions.

§ 49-4-113. Duration of custody or guardianship of children committed to department.

§ 49-4-114. Consent by agency or department to adoption of child; statement of relinquishment by parent; counseling services; petition to terminate parental rights; notice; hearing; court orders.

§ 49-4-115. Emancipation.

§ 49-4-116. Voluntary placement; petition; requirements; attorney appointed;

§ 49-4-206. Designation of local fire department as a safe-surrender site; requirement.

**Part III. Emergency Custody of Children Prior to Petition.**

§ 49-4-301. Custody of a neglected child by law enforcement in emergency situations; protective custody; requirements; notices; petition for appointment of special guardian; discharge; immunity.

§ 49-4-302. Authorizing a family court judge to order custody of a child in emergency situations; requirements; orders; investigations; notification required.

§ 49-4-303. Emergency removal by department before filing of petition; notice; referee; application for emergency custody; orders.

**Part IV. Multidisciplinary Teams, Case Plans, Transition Plans and After-Care Plans.**

§ 49-4-401. Purpose; system to be a complement to existing programs.

§ 49-4-402. Multidisciplinary investigative teams; establishment; membership; procedures; coordination among agencies; confidentiality.

§ 49-4-403. Multidisciplinary treatment planning process; coordination; to information.

§ 49-4-404. Court review of service plan; hearing; required findings; order; member's objections.

§ 49-4-405. Multidisciplinary treatment planning process involving child and neglect; team membership; duties; reports; admission; requirements; custody; procedure; reports; coordination; inadmissibility of certain statements.

§ 49-4-407. Team directors; records; case logs.

§ 49-4-408. Unified child and family care plans; treatment teams; professional requirements.

§ 49-4-409. After-care plans; contents; written comments; contacts; objectives.

§ 49-4-410. Other agencies of government required to cooperate.

§ 49-4-411. Law enforcement; prosecution; interference with performance; duties.

§ 49-4-412. Exemption from multidisciplinary team review before emergency out-of-home placements.

§ 49-4-413. Individualized case planning.

**Part V. Duties of the Prosecuting Attorney.**

§ 49-4-501. Prosecuting attorney representation of the Department of and Human Resources; conflict resolution.

§ 49-4-502. Prosecuting attorney to cooperate with persons other than department in child abuse and neglect matters; duties.

§ 49-4-503. Prosecuting attorney to represent petitioner in juvenile case.

§ 49-4-504. Prosecuting attorney duty to establish multidisciplinary investigative teams.

**Part VI. Procedures in Cases of Child Neglect or Abuse.**

§ 49-4-601. Petition to court when child believed neglected or abused; notice; right to counsel; continuing legal education; filing; proceedings; procedure.

§ 49-4-601a. Preference of child placement.

§ 49-4-601b. Substantiation by the department of abuse and neglect; filing; exculpation; exceptions.

§ 49-4-602. Petition to court when child believed neglected or abused; temporary care, custody, and control of child at different stages; proceedings; temporary care; orders; emergency removal when reasonable efforts to preserve family are unmet.

§ 49-4-603. Medical and mental examinations; limitation of evidence; proceedings; testimony; judge or referee.

§ 49-4-604. Disposition of neglected or abused children; case plans; disposition factors to be considered; reunification; orders; alternative dispositions.

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

§ 49-4-606. Modification of dispositional orders; hearings; treatment of unadopted children.

§ 49-4-607. Consensual termination of parental rights.

§ 49-4-608. Permanency hearing; frequency; transitional planning; out-of-home placement; findings; notice; permanent placement or return to parent.

§ 49-4-609. Conviction for offenses against children.

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

West Virginia Code  
§49-4-101 to §49-4-610  
deal with child abuse and  
neglect cases.

Within those laws, there  
are 54 sections.

The others (W.Va. Code 49-  
4-701 to 49-4-904) deal  
with Juvenile Status (JS)  
and Juvenile Delinquency  
(JD) cases.



# 55 Rules of Procedure for Child Abuse and Neglect Proceedings

## Instructions

The rules of procedure are short and to the point. They tell us exactly what the judge needs to do, what will happen, and when things will happen in the case. Sometimes the rules are really just condensed versions of the statutes.

## Guidelines for Children's GALs

The West Virginia Rules of Procedure for Child Abuse and Neglect contain Appendix A, the Guidelines for Children's Guardians ad Litem in Child Abuse and Neglect Cases (Parts A, B, and C).



RULES OF PROCEDURE FOR CHILD ABUSE AND NEGLECT PROCEEDINGS	
Scope of child abuse and neglect rules	Rule 54. Transitioning adults
Purposes of child abuse and neglect rules; construction and enforcement	55. Qualified residential treatment programs
Definitions	Guidelines for Children's Guardians Ad Litem in Child Abuse and Neglect Cases
Pre-petition investigations	APPENDIX B. IN THE CIRCUIT COURT OF COUNTY, WEST VIRGINIA.
Transfer and consolidation	Editor's notes. -- The following Rules of Procedure for Child Abuse and Neglect Proceedings were adopted by order of the Supreme Court of Appeals on December 5, 1995 and effective on January 1, 1997.
Venue	Rule 1. Scope of child abuse and neglect rules.
Contemporaneous civil, criminal, and other proceedings	These rules set forth procedures for circuit courts in child abuse and neglect proceedings instituted pursuant to W. Va. Code § 49-4-601, et seq. If these rules conflict with other rules or statutes, these rules shall apply.
Maintaining case on court docket	History. Amended by order entered and effective April 3, 2006; Amended by order entered and effective November 9, 2015.
Confidentiality of Proceedings and Records; Access by Family Court	Applied in In re Cesar L., 221 W. Va. 246, 654 S.E.2d 373, 2007 W. Va. LEXIS 75 (2007).
Time Computation; extensions of time and continuances	Quoted in In re Edward B., 210 W. Va. 621, 558 S.E.2d 630, 2001 W. Va. LEXIS 117 (2001).
Testimony of children; inclusion of children in hearings and multidisciplinary treatment team meetings	Rule 2. Purposes of child abuse and neglect rules; construction and enforcement.
Use of closed circuit television testimony	These rules shall be liberally construed to achieve safe, stable, secure permanent homes for abused and/or neglected children and fairness to all litigants. These rules are not to be applied or enforced in any manner which will endanger or harm a child. These rules are designed to accomplish the following purposes:
Discovery	(a) To provide fair, timely and efficient disposition of cases involving suspected child abuse or neglect;
Motion to compel, limit, or deny discovery	(b) To provide for judicial oversight of case planning;
Judicial management of discovery	(c) To ensure a coordinated decision-making process;
Preservation of records and exhibits.	(d) To reduce unnecessary delays in court proceedings through strengthened court case management; and
Telephone or video conferences	(e) To encourage the involvement of all parties, including children, in the litigation as well as the involvement of all community agencies and resource personnel providing services to any party.
Visitation and other communication with child	Particular cases. -- In cases involving the abuse and neglect of children, when it appears from the court's review of the record on appeal that the health and welfare of a child may be at risk as a result of the child's custodial placement, regardless of whether that placement is an issue raised in the appeal, the court will take such action as it deems appropriate and necessary
Emergency custody	
Required Entry of Support Orders	
Pleadings allowed; Form of motions and other papers	
Contents of petition	
Appointments; responsibilities of guardian ad litem	
Amendments to petition	
Notice of first hearing	
Effect of personal service on only one parent	
Preliminary hearing	
Prejudiciary improvement period; family case plan; status conference	
Adjudicatory prehearing conference	
Time of final adjudicatory hearing	
Stipulated adjudications, uncontested petitions, contents of written reports and admissions	
Findings; adjudication order	
Disposition report by Department -- The child's case plan; contents of the child's case plan	
Notice of the child's case plan	
Exchange of information before disposition hearing	
Notice of disposition hearing	
Time of disposition hearing	
Stipulated disposition, contents of stipulation, voluntariness	
Rulings on objections to the child's case plan	
Uncontested termination of parental rights and contested termination and contents to the case plan	
Findings; disposition order	
Permanency hearing	
Improvement period; status conference	
Hearing after improvement period; final disposition	
Permanent placement review	
Permanent placement review reports	
Permanent placement review conference	
Findings at permanent placement review; order	
Time for permanent placement	
Foster care review	
Review following permanent placement; reporting; permanent placement changes	
Modification or supplementation of court order; stipulations	
Status conferences	
Separate hearing on issue of paternity	
Accelerated appeal for child abuse and neglect and termination of parental rights cases	
Stay on appeal	
Multidisciplinary treatment teams	
Court-appointed special advocate (CASA) representative	
Care status reporting	

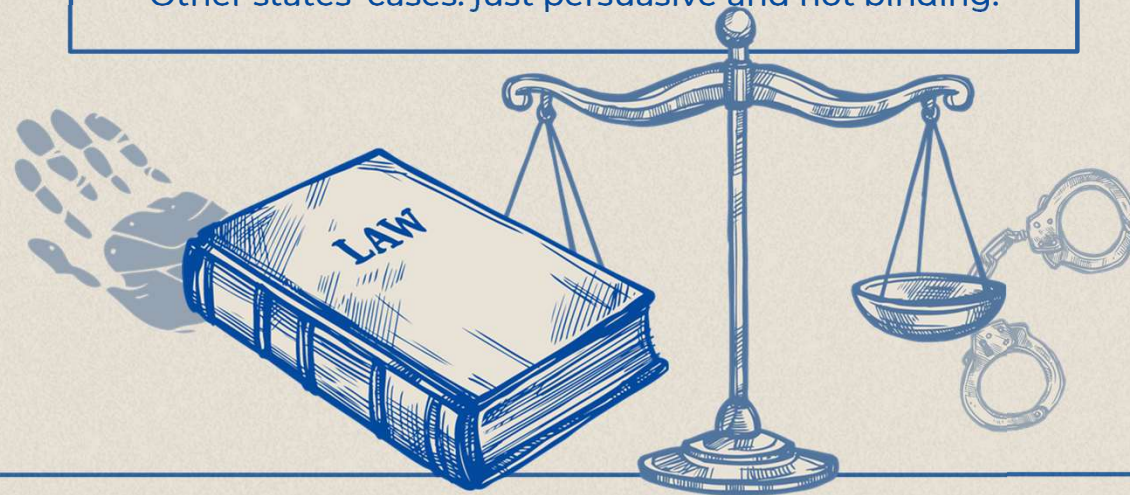
# Case Law

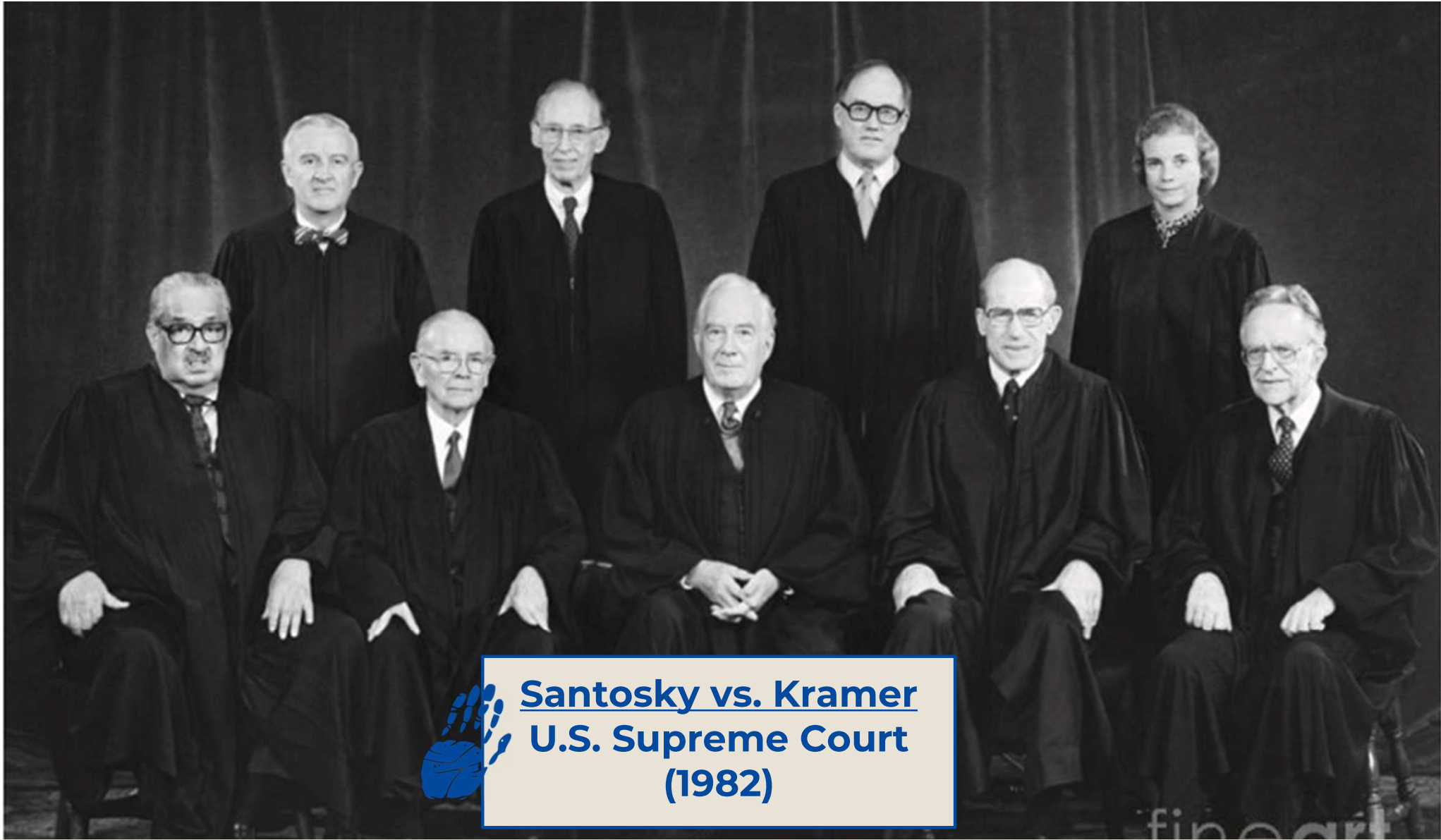
**\*Supreme Court of Appeals of West Virginia\***

*and*

United States Supreme Court

Other states' cases: just persuasive and not binding.





 **Santosky vs. Kramer**  
**U.S. Supreme Court**  
**(1982)**

## Santosky vs. Kramer (1982)

- ◆ Established that there is a fundamental liberty interest of natural parents in the care, custody and management of their children, protected by the 14<sup>th</sup> amendment's due process clause

And:

- ◆ Parental rights cannot be terminated without "clear and convincing evidence."



# 14<sup>th</sup> Amendment of the Constitution of the United States

## Fourteenth Amendment, Section 1:

*All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.*



# Just a Few of the Frequently Cited WV Cases in Abuse and Neglect cases:

- In re Katie S. (1996): court required to determine whether **post-termination visitation** in children's best interests. Primary goal is health and welfare of the children.
- In the Interest of: Tiffany Marie S. (1996): WV Supreme Court can't set aside a finding unless it's **clearly erroneous**.
- In re Harley C. (1998): **Foster parents** who are granted standing to intervene in A&N case are parties and have **appeal rights**.



## A few of the frequently cited cases

- In re Christina W. (2006): Clarified **duties of Guardian *ad litem*** (GAL) regarding **confidentiality** and safeguarding the **best interests** of the children.
- In re Antonio R.A. (2011): Trial court has discretion to override the wishes of **child over 14** about who her **guardian** should be. (In this case, judge gave mother's wishes deference.)
- In re Timber M.\* (2013): Even if no one raised an issue for **appeal**, this court will take action it deems appropriate to protect the child.

After Timber M. in 2013, children's first names were no longer used in the names of the WV Supreme Court abuse and neglect appeals cases. At the beginning of 2010, the WV Sup. Ct. started using children's initials instead of first names with one initial.





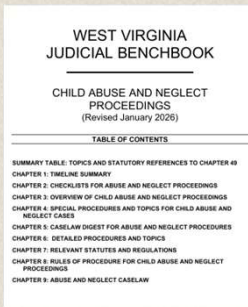
**03**

**RESOURCES**

# RESOURCES

## JUDICIAL BENCHBOOK FOR ABUSE AND NEGLECT

A 580-page guide for West Virginia judges and lawyers to provide additional guidance. Last updated in January of 2026.

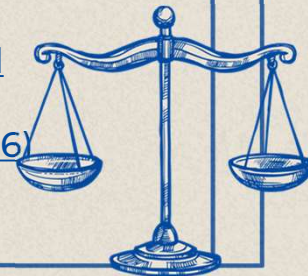
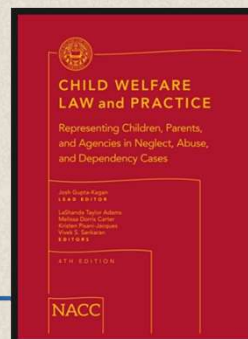


## WV CPS POLICY MANUAL

WV Department of Human Services has a 204-page manual to guide CPS workers on what to do. It's online and updated frequently. It was last updated in March of 2026.

## BOOKS, CLEs, and GOING TO COURT

[Child Welfare Law and Practice: Representing Children, Parents, and State Agencies in Abuse, Neglect and Dependency Cases](#) by Donald Duquette, Ann M. Haralambie, and Vivek Sankaran, third edition (2016)





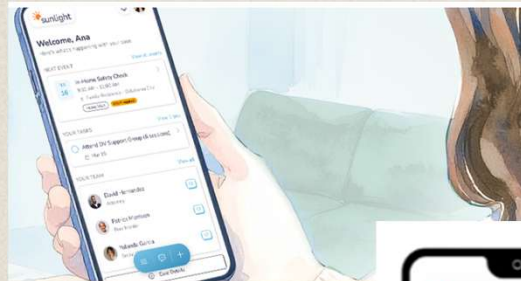
**04**

**TOOLS FOR  
CASE  
MANAGEMENT**

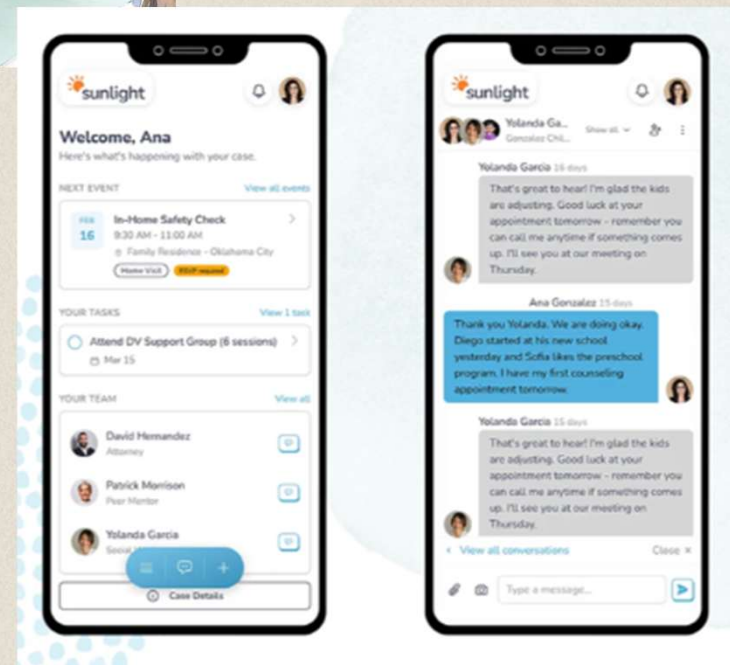
# Case Management Tools

CHECKLIST FOR ABUSE AND NEGLECT (CPS) CASE		
<b>Client Name</b>		<input type="checkbox"/> Header created/saved with certificate of service. <input type="checkbox"/> Initial letter to client sent.
<b>Date Filed</b>		
<b>Client Status: Children/Adult Resp./ Int. Party</b>		
<b>Judge</b>		
<b>Other attorneys for parties</b>		<b>Adult Resp.</b>
GAL		
DHS		
<b>CPS worker(s)</b>		
<input type="checkbox"/> <b>CASA appointed</b>		
<input type="checkbox"/> <b>Child Advocacy Center involved</b>		
<b>Client E-Mail</b>		
<b>Client Phone</b>		
<b>Client Address</b>		
<b>Stage of Case</b>	<b>Date</b>	<b>Notes (status, services, classes, visits, etc.)</b>
<input type="checkbox"/> Preliminary Hearing		
<input type="checkbox"/> Pre-Adjudic. Imp. Pd.		
<input type="checkbox"/> Request made or motion filed		
<input type="checkbox"/> Voluntary Stipulation		
<input type="checkbox"/> Adjudication Hearing		
<input type="checkbox"/> MDTs scheduled		
<input type="checkbox"/> Child support ordered		
<input type="checkbox"/> Motion for Post-Adj. Imp. Pd.		
<input type="checkbox"/> First Discovery recvd.		
<input type="checkbox"/> Second Discovery recvd.		
<input type="checkbox"/> Third Discovery		
<input type="checkbox"/> Fourth Discovery		
<input type="checkbox"/> Provider/supervision notes received?		
<input type="checkbox"/> Psych Eval Appointment		<input type="checkbox"/> Psych Eval Received
<input type="checkbox"/> Psych Eval Sent to Client		
<input type="checkbox"/> 3-month review hearing		
<input type="checkbox"/> Discovery Submitted (by client)		
<input type="checkbox"/> Proof of Attendance at Facility		
<input type="checkbox"/> Psych Eval Recommendations		
<input type="checkbox"/> Therapy		
<input type="checkbox"/> Post-Adjudicatory Imp. Pd.		
<input type="checkbox"/> Review Hearing(s)		
<input type="checkbox"/> Three-month ext. of Imp. Pd.		
<input type="checkbox"/> Revocation of Imp. Pd.?		
<input type="checkbox"/> GAL report(s)		
<input type="checkbox"/> Family Case Plan 5 days prior		
<input type="checkbox"/> Disposition Hearing		
<input type="checkbox"/> 3-mo. review hearing		
<input type="checkbox"/> Post-Dispositional Imp. Pd.		
<input type="checkbox"/> Disposition of case		
<input type="checkbox"/> Ext. to Post-Dispositional Pd.		
<input type="checkbox"/> Voluntary Relinquishment		
<input type="checkbox"/> Trial remanification		
<input type="checkbox"/> Dismissal		<input type="checkbox"/> Permanency Reviews
<input type="checkbox"/> Appeal discussed		

One-page case checklist.



Sunlight (was "Your Case Plan").





**05**

**MOCK  
ADJUDICATORY  
HEARING**

# In re: A.D., O.D. and O.H. Adjudicatory Hearing

Loosely based on a 2024 West Virginia case,  
*In re E.O. and M.O.*  
February 7, 2024  
Memorandum Decision



# *In re: A.D., O.D., and O.H.*

The plausible yet imaginary  
Abuse and Neglect case against  
Johnny Depp and Amber Heard in  
Fantasia County, West Virginia.



# ADJUDICATORY HEARING

Parents are agreeing to allegations of abuse and neglect. Their lawyers have advised them that it's in their best interests.

1. Right before the hearing starts, the lawyers and the parents agree on the wording of the stipulation.
2. During the hearing, the judge makes sure the parents want to agree they've been abusive.
3. The lawyers ask if the parents can have an improvement period.



01

Preliminary hearing  
May 3<sup>rd</sup>

02

Adjudicatory  
Hearing June 3<sup>rd</sup>

03

Six-Month  
Improvement  
Period

# Roles Available

Here's a list roles available for the mock adjudicatory hearing:

- Judge
- Assistant Prosecuting Attorney
- CPS Worker
- Guardian ad litem for the children
- Attorney for Amber Heard
- Amber Heard, Adult Respondent Mother
- Johnny Depp, Adult Respondent Father
- Attorney for Johnny Depp
- Attorney for Unknown Father
- Bailiff



# THANKS

DO YOU HAVE ANY QUESTIONS?

christine@mondefender.org  
(304) 974-1400

Mon Defender Inc., 265 Spruce St., Morgantown



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