

1 **Senate Bill No. 590**

2 (By Senators Palumbo, Wills, Klempa and Stollings)

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4 [Introduced February 15, 2012; referred to the Committee on the
5 Judiciary.]
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10 A BILL to amend and reenact §48-23-101, §48-23-102, §48-23-401,
11 §48-23-402, §48-23-501, §48-23-502, §48-23-503, §48-23-504 and
12 §48-23-506 of the Code of West Virginia, 1931, as amended, all
13 relating to including adult siblings of an adoptee in the
14 mutual consent voluntary adoption registry.

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

16 That §48-23-101, §48-23-102, §48-23-401, §48-23-402, §48-23-
17 501, §48-23-502, §48-23-503, §48-23-504 and §48-23-506 of the Code
18 of West Virginia, 1931, as amended, be amended and reenacted, all
19 to read as follows:

20 **ARTICLE 23. VOLUNTARY ADOPTION REGISTRY.**

21 Part I. General Provisions.

22 **§48-23-101. Policy regarding persons obtaining identifying**
23 **information after adoption.**

1 (a) Adoption is based upon the legal termination of parental
2 rights and responsibilities of birth parents and the creation of
3 the legal relationship of parent and child between an adoptee and
4 his or her adoptive parents. These legal and social premises
5 underlying adoption must be maintained. The Legislature recognizes
6 that some adults who were adopted as children have a strong desire
7 to obtain identifying information about their birth parents while
8 other such adult adoptees have no such desire. The Legislature
9 further recognizes that some birth parents have a strong desire to
10 obtain identifying information about their biological children who
11 were surrendered for adoption, while other birth parents have no
12 such desire. The Legislature also recognizes that some adults who
13 were adopted as children have a strong desire to obtain identifying
14 information about their natural siblings.

15 (b) The Legislature fully recognizes the right to privacy and
16 confidentiality of:

17 (1) Birth parents whose children were adopted;

18 (2) The adoptees; ~~and~~

19 (3) The adoptive parents; and

20 (4) The siblings of the adoptee.

21 **§48-23-102. Legislative purpose.**

22 The purpose of this article is to:

23 (1) Set up a mutual consent voluntary adoption registry where
24 birth parents, adult siblings and adult adoptees may register their

1 willingness to the release of identifying information to each
2 other;

3 (2) To provide for the disclosure of such identifying
4 information to birth parents, adult siblings or adoptees or both,
5 through a social worker employed by a licensed adoption agency,
6 provided each birth parent and the adult adoptee voluntarily
7 registers on his or her own; and

8 (3) To provide for the transmission of non-identifying health
9 and social and genetic history to the adult adoptees, adult
10 siblings, birth parents and other specified persons; and

11 (4) To provide for disclosure of identifying information for
12 cause shown.

13 Part IV. Use of the Voluntary Adoption Registry.

14 **§48-23-401. Persons to whom use of the mutual consent voluntary**
15 **adoption registry is available.**

16 Use of the mutual consent voluntary adoption registry for obtaining
17 identifying information about birth parents, adult siblings and
18 adult adoptees is available to birth parents, adult siblings and
19 adult adoptees, except as otherwise limited by section 23-402.

20 **§48-23-402. Age limitations on use of the mutual consent**
21 **voluntary adoption registry.**

22 (a) A birth parent is not eligible to use the registry until
23 his or her child who was adopted is eighteen years of age or older.

1 (b) An adult adoptee is not eligible to use the registry if he
2 or she has a sibling in his or her adoptive family who is under the
3 age of eighteen years.

4 (c) An adult sibling is not eligible to use the registry until
5 he or she is eighteen years of age or older.

6 Part V. Operation of the Voluntary Adoption Registry.

7 **§48-23-501. Prerequisites to disclosure of identifying**
8 **information.**

9 The adult adoptee, adult sibling and each birth parent may
10 voluntarily, without having been contacted by any employee or agent
11 of the entity operating the registry, place his or her name in the
12 appropriate registry before any disclosure or identifying
13 information can be made. A qualified person may register by
14 submitting a notarized affidavit to the appropriate registry
15 stating his or her name, address and telephone number and his or
16 her willingness to be identified solely to the other relevant
17 persons who register. No registration may be accepted until the
18 prospective registrant submits satisfactory proof of his or her
19 identity in accord with the provisions specified in section 23-601
20 of this article. The failure of any of the ~~three~~ four above
21 described persons to file a notarized affidavit with the registry
22 for any reason, including death or disability, precludes the
23 disclosure of identifying information to those relevant persons who
24 do register.

1 **§48-23-502. Counseling of registrants.**

2 Upon registering, the registrant shall participate in not less
3 than one hour of counseling with a social worker employed by the
4 entity that operates the registry, except if a birth parent, or
5 adult adoptee or adult sibling is domiciled outside the state, he
6 or she shall obtain counseling from a social worker employed by a
7 licensed agency in that other state selected by the entity that
8 operates the registry. When an eligible person registers concerning
9 an adoption that was arranged through an agency which has not
10 merged or otherwise ceased operations, and that same agency is not
11 operating the registry, the entity operating the registry shall
12 notify by certified mail the agency which handled the adoption
13 within ten business days after the date of registration.

14 **§48-23-503. Cases where disclosure of identifying information**
15 **cannot occur.**

16 In any case where the identity of the birth father was unknown
17 to the birth mother, or where the administrator learns that one or
18 both of the birth parents or one or more adult siblings of the
19 adoptee are deceased, this information shall be shared with the
20 adult adoptee. In these kinds of cases, the adoptee will not be
21 able to obtain identifying information through the registry, and he
22 or she would be told of his or her right to pursue whatever right
23 otherwise exists by law to petition a court to release the
24 identifying information.

1 **§48-23-504. Matching and disclosure procedures.**

2 (a) Each mutual consent voluntary adoption registry must be
3 operated under the direction of an administrator.

4 (b) A person eligible to register may request the
5 administrator to disclose identifying information by filing an
6 affidavit which sets forth the following:

7 (1) The current name and address of the affiant;

8 (2) Any previous name by which the affiant was known;

9 (3) The original and adopted names, if known, of the adopted
10 child;

11 (4) The place and date of birth of the adopted child; or

12 (5) The name and address of the adoption agency or other
13 entity, organization or person placing the adopted child, if known.

14 (c) The affiant shall notify the registry of any change in
15 name or location which occurs subsequent to his or her filing the
16 affidavit. The registry has no duty to search for an affiant who
17 fails to register his or her most recent address.

18 (d) The administrator of the mutual consent voluntary adoption
19 registry shall process each affidavit in an attempt to match the
20 adult adoptee and the birth parents. Such processing shall include
21 research from agency records, when available, and when agency
22 records are not available, research from court records to determine
23 conclusively whether the affiants match.

24 (e) The administrator shall determine that there is a match

1 when the adult adoptee and the birth mother, or the adult adoptee
2 and the birth father, or the adult adoptee and the adult siblings
3 have each filed affidavits with the mutual consent voluntary
4 adoption registry and have each received the counseling required in
5 section 23-502.

6 (f) When a match has taken place, the department shall
7 directly notify all parties through a direct and confidential
8 contact. The contact shall be made by an employee or agent of the
9 agency receiving the assignment and shall be made face to face,
10 rather than by mail, telephone or other indirect means. The
11 employee or agent shall be a trained social worker who has
12 expertise in post-legal adoption services.

13 **§48-23-506. Scope of information obtained by the mutual consent**
14 **voluntary adoption registry.**

15 A mutual consent voluntary adoption registry shall obtain only
16 information necessary for identifying a birth parent, adult sibling
17 or adult adoptee and in no event shall obtain information of any
18 kind pertaining to the adoptive parents, any siblings to the adult
19 adoptee who are children of the adoptive parents, the income of
20 anyone and reasons for adoptive placement.

NOTE: The purpose of this bill is to add adult siblings of an
adoptee as an individual who can place his or her name on the
voluntary adoption registry.

Strike-throughs indicate language that would be stricken from

the present law and underscoring indicates new language that would be added.