

WEST VIRGINIA LEGISLATURE

2023 REGULAR SESSION

Introduced

House Bill 2361

FISCAL
NOTE

By Delegate Holstein

[Introduced January 11, 2023; Referred to the
Committee on the Judiciary]

1 A BILL to amend and reenact §48-22-702 of the Code of West Virginia, 1931, as amended,
 2 relating to adoption records, providing a means for adoptees reaching 21 years of age to
 3 obtain an original birth certificate upon application and payment of fees.

Be it enacted by the Legislature of West Virginia:

ARTICLE 22. ADOPTION.

§48-22-702. Recordation of order; fees; disposition of records; names of adopting parents and persons previously entitled to parental rights not to be disclosed; disclosure of identifying and nonidentifying information; certificate for state registrar of vital statistics; birth certificate.

1 (a) The order of adoption shall be recorded in a book kept for that purpose, and the clerk
 2 shall receive the same fees as in other cases. All records of proceedings in adoption cases and all
 3 papers and records relating to such proceedings shall be kept in the office of the clerk of the circuit
 4 court in a sealed file, which file shall be kept in a locked or sealed cabinet, vault or other container
 5 and shall not be open to inspection or copy by anyone, except as otherwise provided in this article,
 6 or upon court order for good cause shown. No person in charge of adoption records shall disclose
 7 the names of the adopting parent or parents, the names of persons previously entitled to parental
 8 rights, or the name of the adopted child, except as otherwise provided in this article, or upon court
 9 order for good cause shown. The clerk of the court keeping and maintaining the records in
 10 adoption cases shall keep and maintain an index of such cases separate and distinct from all other
 11 indices kept or maintained by him or her, and the index of adoption cases shall be kept in a locked
 12 or sealed cabinet, vault or other container and shall not be open to inspection or copy by anyone,
 13 except as otherwise provided in this article, or upon court order for good cause shown.
 14 Nonidentifying information, the collection of which is provided for in article 23-101, *et seq.*, of this
 15 chapter, shall be provided to the adoptive parents as guardians of the adopted child, or to the adult
 16 adoptee, by their submitting a duly acknowledged request to the clerk of the court. The clerk may
 17 charge the requesting party for copies of any documents, as provided in section eleven, article

18 one, chapter fifty-nine of this code. Either birth parent may from time to time submit additional
19 social, medical or genetic history for the adoptee, which information shall be placed in the court file
20 by the clerk, who shall bring the existence of this medical information to the attention of the court.
21 The court shall immediately transmit all such nonidentifying medical, social or genetic information
22 to the adoptive parents or the adult adoptee.

23 (b) If an adoptee, or parent of a minor adoptee, is unsuccessful in obtaining identifying
24 information by use of the mutual consent voluntary adoption registry provided for in 23-101, *et*
25 *seq.*, identifying information may be sought through the following process:

26 (1) Upon verified petition of an adoptee at least eighteen years of age, or, if less than
27 eighteen, his or her adoptive parent or legal guardian, the court may also attempt, either itself, or
28 through its designated agent, to contact the birth parents, if known, to obtain their consent to
29 release identifying information to the adoptee. The petition shall state the reasons why the
30 adoptee desires to contact his or her birth parents, which reasons shall be disclosed to the birth
31 parents if contacted. The court and its agent shall take any and all care possible to assure that
32 none but the birth parents themselves are informed of the adoptee's existence in relationship to
33 them. The court may appoint the bureau of children and families, or a private agency which
34 provides adoption services in accordance with standards established by law, to contact birth
35 parents as its designated agent, the said agent shall report to the court the results of said contact.

36 (2) Upon the filing of a verified petition as provided in subdivision (1) of this subsection,
37 should the court be unable to obtain consent from either of the birth parents to release identifying
38 information, the court may release such identifying information to the adoptee, or if a minor, the
39 adoptee's parents or guardian, after notice to the birth parents and a hearing thereon, at which
40 hearing the court must specifically find that there exists evidence of compelling medical or other
41 good cause for release of such identifying information.

42 (3) Upon application of the adoptee who is at least 21 years of age. The application shall be
43 accompanied by a one-time \$30 fee and the common birth certificate fee. The clerk shall issue to

44 the adoptee an original birth certificate.

45 (c) Identifying information may only be obtained with the duly acknowledged consent of the
46 mother or the legal or determined father who consented to the adoption or whose rights were
47 otherwise relinquished or terminated, together with the duly acknowledged consent of the adopted
48 child upon reaching majority, or upon court order for good cause shown. Any person previously
49 entitled to parental rights may from time to time submit additional social or medical information
50 which, notwithstanding other provisions of this article, shall be inserted into the record by the clerk
51 of the court.

52 (d) Immediately upon the entry of such order of adoption, the court shall direct the clerk
53 thereof forthwith to make and deliver to the state registrar of vital statistics a certificate under the
54 seal of said court, showing:

55 (1) The date and place of birth of the child, if known;

56 (2) The name of the mother of the child, if known, and the name of the legal or determined
57 father of the child, if known;

58 (3) The name by which said child has previously been known;

59 (4) The names and addresses of the adopting parents;

60 (5) The name by which the child is to be thereafter known; and

61 (6) Such other information from the record of the adoption proceedings as may be required
62 by the law governing vital statistics and as may enable the state registrar of vital statistics to carry
63 out the duties imposed upon him or her by this section.

64 (e) Upon receipt of the certificate, the registrar of vital statistics shall forthwith issue and
65 deliver by mail to the adopting parents at their last-known address and to the clerk of the county
66 commission of the county wherein such order of adoption was entered a birth certificate in the form
67 prescribed by law, except that the name of the child shown in said certificate shall be the name
68 given him or her by the order of adoption. The clerk shall record such birth certificate in the manner
69 set forth in section twelve, article five, chapter sixteen of this code.

- 70 (f) Amendments made to this section in the 2023 regular session of the West Virginia
- 71 Legislature.

NOTE: The purpose of this bill is to unseal adoption records after adoptees reach 21 years of age for adoptees for a one-time fee of \$30 and issuance of an original birth certificate for the common birth certificate fee.

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