

WEST VIRGINIA LEGISLATURE

2024 REGULAR SESSION

Committee Substitute

for

Senate Bill 318

BY SENATORS TRUMP, WELD, WOELFEL, DEEDS,

PLYMALE, AND TAKUBO

[Originating in the Committee on the Judiciary;

reported January 23, 2024]

1 A BILL to amend and reenact §48-22-502 of the Code of West Virginia, 1931, as amended; to
2 amend said code by adding thereto a new section, designated §49-4-117, all relating
3 generally to adoption proceedings; requiring certain information to be included in the
4 adoption petition; and requiring Department of Human Services to provide certificate in
5 certain circumstances where parental rights have been terminated.

Be it enacted by the Legislature of West Virginia:

CHAPTER 48. DOMESTIC RELATIONS.

ARTICLE 22. ADOPTION.

§48-22-502. Petition and appendix.

1 (a) The petition shall be verified and set forth:

2 (1) The name, age, and place of residence of the petitioner or petitioners, and of the child,
3 and the name by which the child ~~shall be~~ is known;

4 (2) Whether such child is possessed of any property and a full description of the ~~same~~
5 property, if any;

6 (3) Whether the petitioner or petitioners know the identity of the persons entitled to parental
7 rights or, that the ~~same~~ persons are unknown to the petitioner or petitioners; ~~and~~

8 (4) Whether and on what basis the parental rights of any birth parents should be
9 terminated during the pendency of the adoption petition;

10 (5) If the parental rights of one or more of the child's birth parents have been terminated
11 by a final order or orders of a court of competent jurisdiction, that the final order or orders
12 terminating the parental rights of the child's birth parents have either: (1) Been affirmed on appeal
13 and the time for reconsideration of the decision on appeal has expired; or (2) not been appealed
14 and the time for filing of an appeal of the order or orders terminating the parental rights of the
15 child's birth parents has expired; and

16 (6) A copy of the Department of Human Services' certificate issued under §49-4-117 of
17 this code.

18 (b) In the case of an unknown father, an affidavit signed by the birth mother setting forth
19 the following information must be attached to the petition:

20 (1) Whether the birth mother was married at the probable time of conception of the child,
21 or at a later time, and if so, the identity and last known address of such man;

22 (2) Whether the birth mother was cohabiting with a man at the probable time of conception
23 of the child, and if so, the identity of such man, his last known address and why the woman
24 contends that such man is not the biological father of the child;

25 (3) Whether the birth mother has received payments or promise of support from any man
26 with respect to the child or her pregnancy, and if so, the identity of such man, his last known
27 address and why the birth mother contends that such man is not the biological father of the child;

28 (4) Whether the birth mother has named any man as the father on the birth certificate of
29 the child or in connection with applying for or receiving public assistance, and if so, the identity of
30 such man, his last known address and why the birth mother contends such man is not the
31 biological father of the child;

32 (5) Whether the birth mother identified any man as the father to any hospital personnel,
33 and if so, the identity of such man, his last known address, the name and address of the hospital
34 and why the birth mother now contends such man is not the biological father of the child;

35 (6) Whether the birth mother has informed any man that he may be the biological father
36 of the child, and if so, the identity of such man, his last known address and why the birth mother
37 now contends such man is not the biological father of the child;

38 (7) Whether any man has formally or informally acknowledged or claimed paternity of the
39 child in any jurisdiction at the time of the inquiry, and if so, the identity of such man, his last known
40 address and why the birth mother contends such man is not the biological father of the child;

41 (8) That the birth mother has been advised that the failure to identify or the misidentification
42 of the birth father can result in delays and disruptions in the processing of the adoption petition;

43 (9) That the birth mother has been informed that her statement concerning the identity of
44 the father will be used only for the limited purposes of adoption and that once the adoption is
45 complete, such identity will be sealed; and

46 (10) That the birth mother has been advised of the remedies available to her for protection
47 against domestic violence pursuant to the provisions of ~~article 27-104~~ §48-27-101 *et seq.* of this
48 code.

49 (c) In the event the birth mother is deceased or her identity or whereabouts are unknown,
50 no such affidavit shall be required.

51 (d) The affidavit of the birth mother in the case of an unknown father shall be executed
52 before any person authorized to witness a consent or relinquishment pursuant to the provisions
53 of ~~section 22-302~~ §48-22-302 of this code. Any affidavit filed with the petition pursuant to the
54 provisions of this section shall be sealed in the court file and may not be opened except by court
55 order upon a showing of good cause.

56 (e) If the person petitioning for adoption is less than ~~fifteen~~ 15 years older than the child
57 sought to be adopted, such fact shall be set forth specifically in the petition. In such case, the
58 court shall grant the adoption only upon a specific finding that, notwithstanding the differences in
59 age of the petitioner and the child, such adoption is in the best interest of the child: *Provided*, That
60 in the case of a stepparent adoption, such specific finding shall not be required and an adoption
61 shall not be denied on the sole basis of proximity in age.

62 (f) The petition shall set forth any facts concerning the circumstances of the birth of the
63 child known to the petitioner or petitioners. An effort shall be made to obtain medical and social
64 information, which information, along with all nonidentifying information about the birth, shall
65 accompany the petition and be made a part of the nonidentifying information to be sealed in the
66 court file.

67 (g) Either the petition, the various consents or relinquishments attached thereto or filed in
68 the cause, the affidavit of the birth mother as set forth herein or in an appendix signed by counsel
69 or other credible persons shall fully disclose all that is known about the parentage of the child.

CHAPTER 49. CHILD WELFARE.

ARTICLE 4. COURT ACTIONS.

§49-4-117. Information provided in certain adoptions.

1 In any case where parental rights have been terminated under chapter 49 of this code,
2 the Department of Human Services shall provide a certificate containing the information required
3 by §48-22-502(a)(5) of this code to any person, or the attorney of any person, petitioning to adopt
4 the child or children.