

# **WEST VIRGINIA LEGISLATURE**

## **2020 REGULAR SESSION**

**Introduced**

### **House Bill 4080**

BY DELEGATES STAGGERS, EVANS, ROWAN, MCGEEHAN,  
ZUKOFF, LAVENDER-BOWE, WALKER, S. BROWN, ESTEP-  
BURTON AND HOWELL

[Introduced January 10, 2020; Referred to the  
Committee on Health and Human Resources then the  
Judiciary]

1 A BILL to amend and reenact §48-22-502 of the Code of West Virginia, 1931, as amended,  
 2 relating to petition for legal adoption; accepting unverified petition for adoption in limited  
 3 circumstance where parent signed adoption petition but died before verification was  
 4 obtained.

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

**ARTICLE 22. ADOPTION.**

**§48-22-502. Petition and appendix; exception as to verification.**

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 known;

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

6 (3) Whether the petitioner or petitioners know the identity of the persons entitled to parental  
 7 rights or, that the same 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 (b) In the case of an unknown father, an affidavit signed by the birth mother setting forth  
 11 the following information must be attached to the petition:

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

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

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

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

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

27 (6) Whether the birth mother has informed any man that he or she may be the biological  
28 father of the child, and if so, the identity of such man, his or her last known address and why the  
29 birth mother now contends such man is not the biological father of the child;

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

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

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

39 (10) That the birth mother has been advised of the remedies available to her for protection  
40 against domestic violence pursuant to the provisions of article 27-101, *et seq.*, of this chapter.

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

43 (d) The affidavit of the birth mother in the case of an unknown father shall be executed  
44 before any person authorized to witness a consent or relinquishment pursuant to the provisions  
45 of section 22-302. Any affidavit filed with the petition pursuant to the provisions of this section

46 shall be sealed in the court file and may not be opened except by court order upon a showing of  
47 good cause.

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

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

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

62 (h) In the event that a person completes and signs a petition for adoption and dies before  
63 having the petition verified, the court shall examine the circumstances surrounding the petition,  
64 shall consider the petition as evidence of intent to adopt, and where appropriate, shall consider it  
65 as evidence of intent to give the child the petitioner's name. If deemed to be in the best interest  
66 of the child, the court shall treat the petition as though it had been timely verified and timely filed.

NOTE: The purpose of this bill is to permit acceptance of an unverified petition for adoption in the circumstance in which a person signs a petition but dies before having the petition verified.

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