

WEST VIRGINIA LEGISLATURE

2020 REGULAR SESSION

Introduced

Senate Bill 25

BY SENATORS HAMILTON AND BALDWIN

[Introduced January 8, 2020; referred
to the Committee on Health and Human Resources;
and then to the Committee on the Judiciary]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,
2 designated §48-22-803, relating to adoption records; authorizing adult adoptees access
3 to certain records, including adoption records and medical history; requiring birth parents
4 to provide certain health information; allowing birth parents to designate a contact
5 preference and allowing them to provide certain information; allowing birth parents to
6 request name redaction; providing for a name redacting process; directing the Department
7 of Health and Human Resources to administer records, require additional information, and
8 charge a reasonable fee; providing a procedure for the collection and dissemination of
9 information; providing for the tracking of information and reporting to the Legislative
10 Oversight Commission on Health and Human Resources Accountability; and authorizing
11 the Department of Health and Human Resources to promulgate legislative rules.

Be it enacted by the Legislature of West Virginia:

ARTICLE 22. ADOPTION.

§48-22-803. Definitions, Birth parent contact preference disclosure, redaction form, immunity.

1 (a) Adult adoptee means an adoptee who is at least 18 years of age and who has
2 graduated from high school, completed a Test Assessing Secondary Completion program or has
3 legally withdrawn from secondary schooling.

4 (b) Adoption file means a file maintained by the Department of Health and Human
5 Resources that may contain an original birth certificate and adoption decree of an adoptee.

6 (c) Lineal descendant means a person who by reason of blood or adoption is in the direct
7 line of descent of a person.

8 (d) Medical history means a comprehensive report on the birth parents and any parents
9 of the birth parent, that shall include, but not be limited to, the following: Medical history, health
10 status, cause and age at death, height, weight, major diseases, allergies, ear or eye defects,
11 major conditions, major health problems that may be congenital, familiar, or genetic.

12 (e) Requestor means a person who requests an adoption file under this section and is:

13 (1) The adult adoptee as set forth in this section; or

14 (2) A lineal descendent of a deceased adult adoptee as set forth in this section to whom
15 the adoption file pertains.

16 (f) Notwithstanding any other provision of law, beginning on or after July 1, 2021, a
17 requestor may apply to the Department of Health and Human Resources for the adult adoptee's
18 noncertified copy of original birth record. Subject to sections (h) and (i) of this section the
19 Department of Health and Human Resources shall issue a noncertified copy of original birth
20 record within 45 days of receipt of an application if the application complies with the requirements
21 of subsection (g) of this section.

22 (g) An application under subsection (f) of this section shall be in a form provided by the
23 Department of Health and Human Resources and shall include the following information:

24 (1) The adoptee's current name and name assumed at the time of adoption;

25 (2) The adoptee's address;

26 (3) The adoptee's age and date of birth;

27 (4) The adoptee's gender at birth;

28 (5) Satisfactory proof of identification as determined by the Department of Health and
29 Human Resources;

30 (6) A notarized signature;

31 (7) The adoptee's telephone number;

32 (8) If the requestor is a lineal descent, then the requestor shall provide a birth certificate
33 or other acceptable documentation evidencing the requestor's relationship to the adoptee; and

34 (9) Any other information required by the Department of Health and Human Resources
35 but only to the extent the information is necessary for the Department of Health and Human
36 Resources to verify the identity of the requestor, locate the relevant records or provide the
37 adoptee's noncertified copy of original birth record to the adoptee.

38 (h) The Department of Health and Human Resources shall develop and make available
39 on its website an application for noncertified birth certificate, a contact preference form for the
40 disclosure of medical history, and a name redaction request form. The Department of Health and
41 Human Resources shall make hard copy forms available to the public. The contact preference
42 form shall provide the birth parent with options, in substantially the following form, from which the
43 birth parent shall select one:

44 (1) I would like to be contacted. I have completed the contact preference form and an
45 updated medical history form and consent to filing them with the Department of Health and Human
46 Resources;

47 (2) I would prefer to be contacted only through an intermediary. I have completed the
48 contact preference form and an updated medical history form and consent to filing them with the
49 Department of Health and Human Resources; or

50 (3) Do not contact me. I understand that I may change this preference by filling out another
51 contact preference form. I have completed the contact preference form. I have an updated
52 medical history form and consent to filing a redacted form with the Department of Health and
53 Human Resources.

54 (i) A birth parent may request that the birth parent's name be redacted from a noncertified
55 copy of original birth record issued to an adoptee in accordance with the following:

56 (1) The Department of Health and Human Resources shall create a birth parent's name
57 redaction request form. The form shall include all of the following:

58 (A) Information about the procedures and requirements for a birth parent to do either of
59 the following:

60 (i) Have the form placed in the adoption file of the adoptee who is the birth child of the
61 birth parent so that the birth parent's name is redacted from the noncertified copy of original birth
62 record issued to the adoptee; or

63 (ii) Have the form removed from the adoption file of the adoptee if the birth parent later

64 decides to permit the birth parent's name to be included on the noncertified copy of original birth
65 record;

66 (B) Provisions necessary for the Department of Health and Human Resources to be able
67 to identify the adoption file of the adoptee to whom the form pertains; and

68 (C) A place for the birth parent to attest that the birth parent is the birth parent of the
69 adoptee to whom the form pertains;

70 (2) The Department of Health and Human Resources shall make a birth parent's name
71 redaction request form available upon request no later than October 1, 2020. The Department of
72 Health and Human Resources shall accept a name redaction request form if:

73 (A) The form has been notarized;

74 (B) The birth parent provides two items of identification of the birth parent;

75 (C) If a medical history for the birth parent was not previously prepared, or the medical
76 history was prepared but needs to be updated, the birth parent does the following, as appropriate:

77 (i) Completes a medical history form; and

78 (ii) Updates the birth parent's medical history information; and

79 (D) The Department of Health and Human Resources is satisfied that the form has been
80 substantially completed upon the birth parent's request, this form shall be redacted.

81 (j) The Department of Health and Human Resources shall file an accepted name redaction
82 request form in the adoption file of the adoptee to whom the form pertains.

83 (k) A birth parent may request at any time that the Department of Health and Human
84 Resources remove the name redaction request form from the adoption file of the adoptee to whom
85 the form pertains. The Department of Health and Human Resources shall remove the form if the
86 birth parent provides the department all of the following:

87 (1) Two items of identification of the birth parent;

88 (2) Information the Department of Health and Human Resources needs to be able to
89 identify the adoption file of the adoptee to whom the form pertains; and

90 (3) A notarized attestation that the birth parent is the birth parent of the adoptee to whom
91 the form pertains.

92 (l) A name redaction request form removed from an adoption file shall be destroyed.

93 (m) The Department of Health and Human Resources name redaction request forms shall
94 include all of the following information:

95 (1) The purpose of the form;

96 (2) The procedures to be followed and requirements to be met for the Department of
97 Health and Human Resources to accept the form;

98 (3) The date when birth parents may begin to file the form with the Department of Health
99 and Human Resources;

100 (4) The procedures to be followed and requirements to be met for having the form removed
101 from an adoption file; and

102 (5) Any other information the Department of Health and Human Resources considers
103 necessary, including that failure to file a name redaction request may result in the disclosure of
104 the birth parent's identifying information.

105 (n) The Department of Health and Human Resources may promulgate legislative rules
106 necessary to comply with this section.

107 (o) The Department of Health and Human Resources may charge a fee for issuing a
108 noncertified copy of the original birth record. The fee charged shall not exceed the fee for a
109 certified copy of an original birth record.

110 (p) An officer or employee of the Department of Health and Human Resources who
111 releases any information contained in an adoption file or provides a copy of an adoption file to an
112 adult adoptee or his or her lineal descendants is not criminally or civilly liable in damages to any
113 person for injury, death, or loss allegedly arising from the release of the information or copy if the
114 officer or employee releases the information in conformity with this section.

115 (q) The Department of Health and Human Resources shall track the number of requests

116 for noncertified copies of original birth certificates received, the Department of Health and Human
117 Resources, response time to the requests, and the number of full-time equivalents and/or part-
118 time equivalents assigned to work fulfilling requests for these records. The department shall track
119 this information beginning July 1, 2021 until April 30, 2024 and provide a report to the Legislative
120 Oversight Commission on Health and Human Resources Accountability regarding this information
121 no later than July 1, 2024.

122 (r) Nothing in this section shall be construed to permit disclosure of an adoptee's birth
123 record to the birth parents of an adoptee.

NOTE: The purpose of this bill is to revise current law as it relates to access to adoption records by adoptees. The bill authorizes adult adoptees access to certain records. The bill requires birth parents to provide certain health information at time of adoption. The bill allows birth parents to designate a contact. The bill directs the Department of Health and Human Resources to administer collection of records, require additional information and charge a reasonable fee for records copies. The bill provides a procedure for collection and dissemination of information. The bill authorizes the Department of Health and Human Resources to promulgate legislative rules needed to administer the program.

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