

# **WEST VIRGINIA LEGISLATURE**

## **2021 REGULAR SESSION**

**Introduced**

### **House Bill 2053**

BY DELEGATES HOWELL, HOTT, ROWE AND MAYNARD

[Introduced February 10, 2021; Referred to the  
Committee on Technology and Infrastructure then

Finance

1 A BILL to amend and reenact §16-5-5 and §16-5-29 of the Code of West Virginia, 1931, as  
2 amended; and to amend said code by adding thereto a new section, designated §16-5-  
3 39, all relating to authorizing the Division of Motor Vehicles to issue certain vital records  
4 in the custody of the State Registrar; to require the Division of Motor Vehicles to adhere  
5 to the State Registrar's rules; authorize the Division of Motor Vehicles to collect a fee for  
6 issuing vital records and transmit those fees to the State Registrar monthly; and require  
7 the Commissioner of the Division of Health and Human Resources and Commissioner of  
8 the Division of Motor Vehicles to enter into a Memorandum of Understanding to implement  
9 a program that allows the Division of Motor Vehicles access to certain vital records to issue  
10 to customers.

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

## **ARTICLE. VITAL STATISTICS.**

### **§16-5-5. Powers and duties of State Registrar.**

1 (a) The State Registrar shall:

2 (1) Administer and enforce the provisions of this article and the rules promulgated  
3 pursuant to this article, and issue instructions for the efficient administration of the system of vital  
4 statistics;

5 (2) Direct and supervise the system of vital statistics and the operation of the section of  
6 vital statistics, and act as custodian of its records;

7 (3) Direct, supervise, and control all activities pertaining to the operation of the system of  
8 vital statistics;

9 (4) Conduct training programs to promote uniformity of policy and procedures throughout  
10 the state in matters pertaining to the system of vital statistics;

11 (5) Prescribe, furnish, and distribute forms required by this article and the rules  
12 promulgated pursuant to this article, and prescribe means for transmission of data to accomplish  
13 the purpose of complete and accurate reporting and registration;

14 (6) Prepare and publish annual reports of vital statistics of this state, and other reports  
15 required by the commissioner;

16 (7) Provide to local health agencies copies of or data derived from certificates and reports  
17 required under this article as the State Registrar may determine are necessary for local health  
18 planning and program activities: *Provided*, That the copies and data remain the property of the  
19 section of vital statistics, and the uses that may be made of them are governed by the State  
20 Registrar; and

21 (8) Offer voluntary paternity establishment services in accordance with federal regulations  
22 set forth in 45 CFR 303.5(g).

23 (b) Beginning July 1, 2021, the Division of Motor Vehicles shall be authorized to issue  
24 records of birth, death, marriage or divorce, in the custody of the State Registrar. The Division of  
25 Motor Vehicles, when issuing a record of birth, death, marriage, or divorce, shall by subject to the  
26 State Registrar's rules.

27 ~~(b)~~ (c) The State Registrar may:

28 (1) Designate individuals in the state as meet the requirements provided by rule to aid in  
29 the efficient administration of the system of vital statistics;

30 (2) Delegate functions and duties to employees of the section of vital statistics and to  
31 individuals designated under subdivision (1) of this subsection;

32 (3) Investigate, personally or by a duly delegated representative, cases of irregularity or  
33 violation of law arising under the provisions of this article;

34 (4) Report cases of violation of any of the provisions of this article to the prosecuting  
35 attorney of the county, with a statement of the facts and circumstances. The prosecuting attorney  
36 may prosecute the person or corporation responsible for the alleged violation of law. Upon request  
37 of the State Registrar, the Attorney General shall assist in the enforcement of the provisions of  
38 this article.

**§16-5-29. Fees for copies and searches.**

1 (a) The commissioner shall prescribe the fees to be charged and collected by the State  
2 Registrar for certified copies of certificates or records, not to exceed \$10 per copy, or for a search  
3 of the files or records when no copy is made: *Provided*, That the fee may be increased to a  
4 maximum of \$12 per copy, at the discretion of the commissioner, after July 1, 2008.

5 (b) The commissioner may prescribe additional fees for the priority production or express  
6 delivery of certified copies.

7 (c) The State Registrar may furnish certified copies of birth and death records to state  
8 agencies and to organized charities free of charge when the certificates are needed in presenting  
9 claims to the federal government or to a state for public assistance. The State Registrar will keep  
10 a record of all certificates furnished pursuant to this subsection.

11 (d) Subject to the provisions set forth in §12-2-2 of this code, there is hereby continued in  
12 the State Treasury a separate account which shall be designated "the vital statistics account."

13 (e) After July 1, 2006, and subject to the provisions set forth in §12-2-2 of this code, there  
14 is established in the State Treasury a separate account which shall be designated "The Vital  
15 Statistics Improvement Fund." Funds deposited in this account will be used to modernize and  
16 automate the system of vital statistics in this state and may not be used to supplant existing  
17 funding necessary for the daily operation of the system of vital statistics. Funds in this account  
18 will be retained in a nonlapsing fund for the improvement of the system of vital statistics.

19 (f) The commissioner shall deposit \$1 received under the provisions of this section for  
20 each certified copy to the "Vital Statistics Improvement Fund" and shall deposit \$4 received under  
21 the provisions of this section for each certified copy to the General Revenue Fund account. The  
22 commissioner shall deposit the remainder of all fees received under the provisions of this section  
23 for certified copies and for priority production and express delivery to the vital statistics account.

24 (g) The commissioner is authorized to expend the moneys deposited in the vital statistics  
25 account in accordance with the laws of this state as necessary to implement this article. The  
26 Legislature shall appropriate all moneys in the vital statistics account as part of the annual state

27 budget.

28 (h) The commissioner shall make an annual report to the Legislature on the vital statistics  
29 account, including the previous fiscal year's expenditures and projected expenditures for the next  
30 fiscal year.

31 (i) The Division of Motor Vehicles shall collect a minimum fee of \$12 plus the actual cost  
32 the State Registrar collects for any copy of a vital record. For each copy of a vital record that the  
33 Division of Motor Vehicles issues, it shall retain \$12 and shall transmit the actual cost of a vital  
34 record to the State Registrar on a monthly basis to ensure that the State Registrar recovers all  
35 costs associated with the issuance of certified copies of vital records at Division of Motor Vehicles  
36 facilities.

**§16-5-39. Division of Motor Vehicles to Issue Certain Vital Records.**

1 (a) Beginning July 1, 2021, the Commissioner of the Division of Motor Vehicles shall be  
2 authorized to issue certified copies of birth, death, marriage and divorce records in the custody of  
3 the State Registrar.

4 (b) The Commissioner of the Division of Health and Human Resources or his or her  
5 designee and the Commissioner of the Division of Motor Vehicles or his or her designee shall  
6 enter into a memorandum of understanding to successfully develop and implement a program  
7 that shall allow the Division of Motor Vehicles to issue certified copies of vital records that are in  
8 electronic form, including a comprehensive plan with defined responsibilities for each agency. The  
9 memorandum of understanding shall also include provisions to ensure that the integrity and  
10 security of the system of vital records is maintained, and shall specify audit requirements,  
11 inventory and security paper usage monitoring requirements, and training requirements including  
12 the proper methods for issuing certified copies of vital records, assessing the eligibility of a  
13 requester to obtain a certified copy of a vital record, and verifying the identification of the  
14 requester.

NOTE: The purpose of this bill is to provide the authority to the Commissioner of the Division of Motor Vehicles to issue certain vital records subject to the rules and regulations of the State Registrar, to allow the DMV to collect fees for issuing vital records that will be provided to the State Registrar, and for the Commissioners of the DMV and DHHR to enter into a Memorandum of Understanding to implement a program that allows the DHHR to provide access to certain vital records to the DMV.

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