

WEST VIRGINIA LEGISLATURE

2023 REGULAR SESSION

ENGROSSED

Committee Substitute

for

Senate Bill 470

BY SENATORS AZINGER, MAYNARD, AND KARNES

[Originating in the Committee on the Judiciary;

reported on February 25, 2023]

1 A Bill to amend and reenact the Code of West Virginia, 1931, as amended, by adding thereto a
2 new section, designated §48-22-803; and to amend and reenact §49-4-604 and §49-4-
3 607 of said code, all relating to adoption and parental rights; establishing a procedure for
4 adopted children to obtain a copy of their original birth certificate and certain personal
5 identifying information regarding their biological parents; establishing a process by which
6 biological parents can consent to providing personal identifying information and medical
7 history to children who have been adopted; allowing biological parents to designate a
8 contact preference; directing the Department of Health and Human Resources to
9 administer records, collect personal identifying information, and charge a reasonable fee
10 for the dissemination of noncertified copies of birth certificates; requiring the Department
11 of Health and Human Resources to track certain information and report to the Legislative
12 Oversight Commission on Health and Human Resources Accountability; directing the
13 Department of Health and Human Resources to study the operation and consider
14 alternative mechanisms to provide adoptive children with access to the medical records
15 of their biological parents; requiring biological parents whose parental rights are
16 terminated to provide personal identifying information to the Department of Health and
17 Human Services; requiring biological parents whose parental rights are terminated to
18 provide authorization to their child's new legal guardian, a child who obtains the age of
19 majority, or their child's lineal descendants, to access their medical records upon a
20 showing of legitimate diagnostic medical need; establishing a requirement that biological
21 parents who seek to voluntarily relinquish their parental rights to provide authorization and
22 consent to their child's new legal guardian, a child who obtains the age of majority, or their
23 child's lineal descendants to access their medical records upon a showing of legitimate
24 diagnostic medical need; and authorizing the Department of Health and Human
25 Resources to promulgate legislative rules related to these provisions.

Be it enacted by the Legislature of West Virginia:

CHAPTER 48. DOMESTIC RELATIONS.

ARTICLE 22. ADOPTION.

§48-22-303. Content of consent or relinquishment.

- 1 (a) A consent or relinquishment as required by the provisions of ~~section 22-304~~ §48-22-
2 301 of this code must be written in plain English or, if the person executing the consent or
3 relinquishment does not understand English, in the person's primary language. The form of the
4 consent or relinquishment shall include the following, as appropriate:
- 5 (1) The date, place, and time of the execution of the consent or relinquishment;
- 6 (2) The name, date of birth, and current mailing address of the person executing the
7 consent or relinquishment;
- 8 (3) The date, place of birth, and the name or pseudonym ("Baby Boy _____ or Baby Girl
9 _____") of the minor child;
- 10 (4) The fact that the document is being executed more than 72 hours after the birth of the
11 child;
- 12 (5) If a consent, that the person executing the document is voluntarily and unequivocally
13 consenting to the transfer of legal and physical custody to, and the adoption of the child by, an
14 adoptive parent or parents whose name or names may, but need not be, specified;
- 15 (6) If a relinquishment, that the person executing the relinquishment voluntarily consents
16 to the permanent transfer of legal and physical custody of the child to the agency for the purposes
17 of adoption;
- 18 (7) If a consent, that it authorizes the prospective adoptive parents, or if a relinquishment,
19 that it authorizes the agency, to consent to medical treatment of the child pending any adoption
20 proceeding;

21 (8) That after the consent or relinquishment is signed and acknowledged, it is final and,
22 unless revoked in accordance with the provisions of §48-22-305 of this code, it may not be
23 revoked or set aside for any other reason;

24 (9) That the adoption will forever terminate all parental rights, including any right to visit or
25 communicate with the child and any right of inheritance;

26 (10) That the adoption will forever terminate all parental obligations of the person
27 executing the consent or relinquishment;

28 (11) That the termination of parental rights and obligations is permanent whether or not
29 any agreement for visitation or communication with the child is subsequently performed;

30 (12) That the person executing the consent or relinquishment does so of his or her own
31 free will and the consent or relinquishment has not been obtained by fraud or duress;

32 (13) That the person executing the consent or relinquishment has:

33 (i) Received a copy of the consent or relinquishment;

34 (ii) Been provided the information and afforded the opportunity to participate in the
35 voluntary adoption registry, pursuant to the provisions of §48-23-101 *et seq.* of this code;

36 (iii) Been advised of the availability of counseling;

37 (iv) Been advised of and provided with copies of the contact preference and personal
38 identifying information disclosure form, and the medical history form established in §48-22-303 of
39 this code, and had the purpose, intent, and utility of those forms explained to them;

40 ~~(iv)~~ (v) Been advised of the consequences of misidentifying the other birth parent; and

41 ~~(v)~~ (vi) If a birth mother, been advised of the obligation to provide the information required
42 by the provisions of §48-22-7 of this code in the case of an unknown father;

43 (14) That the person executing the consent or relinquishment has not received or been
44 promised any money or anything of value for the consent or relinquishment, other than payments
45 authorized by the provisions of §61-2-14h of this code;

46 (15) Whether the child is an "Indian child" as defined in the Indian Child Welfare Act, 25
47 U.S.C. §1903;

48 (16) That the person believes the adoption of the child is in the child's best interest; and

49 (17) That the person who is consenting or relinquishing expressly waives notice of any
50 proceeding for adoption unless the adoption is contested, appealed, or denied.

51 (b) A consent or relinquishment may provide explicitly for its conditional revocation if:

52 (1) Another person whose consent or relinquishment is required does not execute the
53 same within a specified period;

54 (2) A court determines not to terminate another person's parental relationship to the child;
55 or

56 (3) In a direct placement for adoption, a petition for adoption by a prospective adoptive
57 parent, named or described in the consent, is denied or withdrawn.

58 (c) A consent or relinquishment shall also include:

59 (1) If a consent, the name, address, telephone and facsimile numbers of the lawyer
60 representing the prospective adoptive parents; or

61 (2) If a relinquishment, the name, address, telephone and facsimile numbers of the agency
62 to which the child is being relinquished; and

63 (3) Specific instructions on how to revoke the consent or relinquishment.

**§48-22-803. Definitions, biological parent contact preference and personal identifying
information disclosure form, medical history form; immunity from liability.**

1 (a) For purposes of this section, the following words have the ascribed meanings:

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

5 (2) "Adoption file" means a file or record maintained by the Department of Health and
6 Human Resources, or a similar case file maintained by a clerk of the circuit court of any county,

7 that may contain an original birth certificate, adoption decree of an adoptee, and other personal
8 identifying information regarding either an adopted child or that child's biological parents;

9 (3) "Biological parent" means an individual whose genetic material was transmitted to a
10 child via natural conception or any assisted-reproductive process or procedure;

11 (4) "Department of Health and Human Resources" means the Department of Health and
12 Human Resources or any successor agency or agencies;

13 (5) "Lineal descendant" means a person who by reason of blood or adoption is in the direct
14 line of descent of a person;

15 (6) "Medical history" means a comprehensive report on the biological parents and any
16 parents of the biological parent, that shall include, but is not limited to, the following: Medical
17 history, health status, cause and age at death, height, weight, major diseases, allergies, ear or
18 eye defects, major conditions, or major health problems that may be congenital, familial, or
19 genetic;

20 (7) "Requestor" means a person who requests an adoption file under this section and is:

21 (A) The adult adoptee as set forth in this section; or

22 (B) A lineal descendent of a deceased adult adoptee as set forth in this section to whom
23 the adoption file pertains.

24 (b) Notwithstanding any other provision of law, a requestor may apply for and the
25 Department of Health and Human Resources shall provide, within 60 days of receipt of a valid
26 request, subject to the provisions, requirements, and exceptions set forth in this section, a
27 noncertified copy of an adult adoptee's original birth certificate, sufficiently redacted such that it
28 removes any personal identifying information related to the adoptee's biological parents:

29 Provided, That, if a biological parent has returned a contact preference and personal identifying
30 information disclosure form containing an affirmative grant of consent to the release of personal
31 identifying information, the department shall release, to either the requestor or an intermediary
32 identified and approved by the biological parent in the contact preference form, a nonredacted,

33 noncertified copy of the adoptee's birth certificate, as well as any personal identifying information
34 for which consent has been granted, such as the biological parent's legal name, current address,
35 phone number, or email address.

36 (c) An application by a requestor under this section shall be in a form provided by the
37 Department of Health and Human Resources and shall include the following information:

38 (1) The requestor's current name;

39 (2) The name of the adult adoptee, both prior to the adoption, if known, and assumed at
40 the time of the adoption, whose file is being requested;

41 (3) The requestor's address;

42 (4) The requestor's age and date of birth;

43 (5) The adult adoptee's date of birth;

44 (6) The adult adoptee's gender at birth;

45 (7) Satisfactory proof of identification of the identity of the requestor, as determined by the
46 Department of Health and Human Resources;

47 (8) A notarized signature;

48 (9) The requestor's telephone number;

49 (10) If the requestor is a lineal descendant, a birth certificate or other verifiable
50 documentation evidencing the requestor's relationship to the adoptee; and

51 (11) Any other information required by the Department of Health and Human Resources
52 necessary to verify the identity of the requestor, locate the relevant records, or provide the
53 adoptee's noncertified copy of original birth certificate or other identifying information to the
54 requestor.

55 (d) The Department of Health and Human Resources shall develop and make available
56 on its website a form that will be used by requestors to apply for a noncertified copy of an adult
57 adoptee's birth certificate, a medical history form, and a form by which biological parents can
58 express their preference regarding future contact and their willingness to disclose personal

59 identifying information. The Department of Health and Human Resources shall make hard copy
60 forms available to the public.

61 (1) The contact preference and personal identifying information disclosure form shall
62 provide a biological parent with options, in substantially the following form, from which the
63 biological parent shall select one:

64 (A) I would like to be contacted. I have completed the contact preference form, the medical
65 history form, and I consent to both the disclosures outlined in these forms and to the filing of the
66 forms with the Department of Health and Human Resources;

67 (B) I would prefer to be contacted only through an intermediary. I have completed the
68 contact preference form, the medical history form, and I consent to both the disclosures outlined
69 in these forms and to the filing of the forms with the Department of Health and Human Resources;

70 or

71 (C) Do not contact me or release my personal identifying information. I understand that I
72 may change this preference by filling out another contact preference and personal identifying
73 information form. I have completed the medical history form and consent to the disclosure of my
74 medical information so long as any personal identifying information is redacted;

75 (2) The contact preference and personal identifying information disclosure form shall
76 inform biological parents that, as a default and without affirmative consent on the part of the
77 biological parent, no personal identifying information will be made available to a requester; only
78 the information provided in the medical history form, with any personal identifying information
79 redacted, shall be provided. The form shall contain language permitting a biological parent to
80 affirmatively consent to the disclosure of each individual piece of personal identifying information,
81 including but not limited to, the biological parent's legal name, telephone number, email address,
82 and current address.

83 (3) The contact preference and personal identifying information disclosure form shall have
84 a place for the biological parent to attest that they are the biological parent of the adoptee to whom
85 the form pertains;

86 (4) The Department of Health and Human Resources shall provide and make available
87 the forms established by this section to the clerks of the circuit court in every county, and
88 coordinate with the circuit courts and clerks of the circuit court to encourage their dissemination
89 and use in all private adoptions.

90 (e) The Department of Health and Human Resources shall make available, in any adoption
91 case in which the department is involved, a copy of the forms established in subsection (d) of this
92 section to the biological parent or parents of a child who is being adopted. The department shall,
93 at the time the forms are provided, explain the purpose and utility of the forms.

94 (f) The Department of Health and Human Resources shall file a biological parent's contact
95 preference and personal identifying information disclosure form in the adoption file of the adoptee
96 to whom the form pertains.

97 (g) When a biological parent of a parent involved in a private adoption completes one of
98 the forms established by this section, that form shall be included, along with any relinquishments
99 or other writings required by §48-22-301 et seq. of this code, in the adoption file or related case
100 file maintained by the clerk of the circuit court in each county. To the extent practicable, and
101 consistent with the provisions, requirements, and exceptions of this section applicable to the
102 Department of Health and Human Resources, a clerk of the circuit court shall make available, to
103 requestors who can satisfy the requirements of subsection (c) of this section, the medical history
104 information, contact information, and other personal identifying information for which consent has
105 been affirmatively granted, via return of the relevant form, contained in the adoption file or related
106 case file.

107 (h) A biological parent may request at any time that the Department of Health and Human
108 Resources remove or modify the contact preference and personal identifying information

109 disclosure form from the adoption file of the adoptee to whom the form pertains. The Department
110 of Health and Human Resources shall remove or modify the contact preference and personal
111 identifying information disclosure form upon request and a sufficient showing of the biological
112 parent's identity.

113 (i) The Department of Health and Human Resources shall destroy a contact preference
114 and personal identifying information form that has been removed from an adoption file.

115 (j) The Department of Health and Human Resources may propose legislative rules for
116 promulgation necessary to carry out the purposes of this section in accordance with the provisions
117 of §29A-3-1 et seq. of this code.

118 (k) The Department of Health and Human Resources may charge a fee for issuing a
119 noncertified copy of the original birth certificate. The fee charged shall not exceed the fee for a
120 certified copy of an original birth certificate.

121 (l) An officer or employee of the Department of Health and Human Resources who, in
122 conformity with the provisions of this section, releases a noncertified copy of a birth certificate, a
123 copy of an adoption file, or any other record or information covered by this section, to a requestor
124 who has provided the identification verifying documentation and satisfied any other requirements
125 set forth in this section, is not criminally or civilly liable for injury, death, loss, or any other harm
126 allegedly arising from the release of that information or copy.

127 (m) The Department of Health and Human Resources shall track the number of requests
128 under this section for noncertified copies of birth certificates along with requests for biological
129 parent personal identifying information received by the department, the Department of Health and
130 Human Resources' response time to those requests, and the number of full-time equivalents
131 and/or part-time equivalents assigned to work fulfilling requests for these records. The department
132 shall track this information beginning July 1, 2023, until April 30, 2026, and provide a report to the
133 Legislative Oversight Commission on Health and Human Resources Accountability regarding this
134 information no later than July 1, 2026.

135 (n) The Department of Health and Human Resources shall consider and study the
136 operation of this section and other potential additional or alternative mechanisms by which adult
137 adoptees or other requestors can obtain access to information about the biological parents of
138 adoptees, to serve interests, including, but not limited to, facilitating the access to the medical
139 records of biological parents for diagnostic medical purposes and conducting genealogical
140 research. The department shall provide a report detailing the results of its study to the
141 Legislature's Joint Standing Committee on the Judiciary no later than July 1, 2024.

142 (o) Nothing in this section shall be construed to permit disclosure of an adoptee's birth
143 certificate, or other information concerning the adoptee contained in his or her adoption file, to a
144 biological parent of the adoptee.

145 (p) All documents, records, and information obtained via any of the forms or processes
146 established in this section are to be considered confidential and shall not be subject to disclosure
147 under the provisions of West Virginia's Freedom of Information Act, §29B-1-1 et seq. of this code.

CHAPTER 49. CHILD WELFARE.

ARTICLE 4. COURT ACTIONS

§49-4-604. Disposition of neglected or abused children; case plans; dispositions; factors to be considered; reunification; orders; alternative dispositions.

1 (a) *Child and family case plans.* — Following a determination pursuant to §49-4-602 of
2 this code wherein the court finds a child to be abused or neglected, the department shall file with
3 the court a copy of the child's case plan, including the permanency plan for the child. The term
4 "case plan" means a written document that includes, where applicable, the requirements of the
5 family case plan as provided in §49-4-408 of this code and that also includes, at a minimum, the
6 following:

7 (1) A description of the type of home or institution in which the child is to be placed,
8 including a discussion of the appropriateness of the placement and how the agency which is

9 responsible for the child plans to assure that the child receives proper care and that services are
10 provided to the parents, child, and foster or kinship parents in order to improve the conditions that
11 made the child unsafe in the care of his or her ~~parent(s)~~ parents, including any reasonable
12 accommodations in accordance with the Americans with Disabilities Act of 1990, 42 U. S. C. §
13 12101 *et seq.*, to parents with disabilities in order to allow them meaningful access to reunification
14 and family preservation services;

15 (2) A plan to facilitate the return of the child to his or her own home or the concurrent
16 permanent placement of the child; and address the needs of the child while in kinship or foster
17 care, including a discussion of the appropriateness of the services that have been provided to the
18 child.

19 The term "permanency plan" refers to that part of the case plan which is designed to
20 achieve a permanent home for the child in the least restrictive setting available. The plan must
21 document efforts to ensure that the child is returned home within approximate ~~time-lines~~ timelines
22 for reunification as set out in the plan. Reasonable efforts to place a child for adoption or with a
23 legal guardian should be made at the same time, or concurrent with, reasonable efforts to prevent
24 removal or to make it possible for a child to return to the care of his or her parent(s) safely. If
25 reunification is not the permanency plan for the child, the plan must state why reunification is not
26 appropriate and detail the alternative, concurrent permanent placement plans for the child to
27 include approximate ~~time-lines~~ timelines for when the placement is expected to become a
28 permanent placement. This case plan shall serve as the family case plan for parents of abused
29 or neglected children. Copies of the child's case plan shall be sent to the child's attorney and
30 parent, guardian, or custodian or their counsel at least five days prior to the dispositional hearing.
31 The court shall forthwith proceed to disposition giving both the petitioner and respondents an
32 opportunity to be heard.

33 (b) *Requirements for a guardian ad litem.* —

34 A guardian ad litem appointed pursuant to §49-4-601(f)(1) of this code, shall, in the
35 performance of his or her duties, adhere to the requirements of the Rules of Procedure for Child
36 Abuse and Neglect Proceedings and the Rules of Professional Conduct and such other rules as
37 the West Virginia Supreme Court of Appeals may promulgate, and any appendices thereto, and
38 must meet all educational requirements for the guardian ad litem. A guardian ad litem may not be
39 paid for his or her services without meeting the certification and educational requirements of the
40 court. The West Virginia Supreme Court of Appeals is requested to provide guidance to the judges
41 of the circuit courts regarding supervision of said guardians ad litem. The West Virginia Supreme
42 Court of Appeals is requested to review the Rules of Procedure for Child Abuse and Neglect
43 Proceedings and the Rules of Professional Conduct specific to guardians ad litem.

44 (c) *Disposition decisions.* — The court shall give precedence to dispositions in the
45 following sequence:

46 (1) Dismiss the petition;

47 (2) Refer the child, the abusing parent, the battered parent, or other family members to a
48 community agency for needed assistance and dismiss the petition;

49 (3) Return the child to his or her own home under supervision of the department;

50 (4) Order terms of supervision calculated to assist the child and any abusing parent or
51 battered parent or parents, or custodian which prescribe the manner of supervision and care of
52 the child, and which are within the ability of any parent or parents or custodian to perform;

53 (5) Upon a finding that the abusing parent, or battered parent or parents, are presently
54 unwilling or unable to provide adequately for the child's needs, commit the child temporarily to the
55 care, custody, and control of the department, a licensed private child welfare agency, or a suitable
56 person who may be appointed guardian by the court. The court order shall state:

57 (A) That continuation in the home is contrary to the best interests of the child and why;

58 (B) Whether or not the department has made reasonable efforts, with the child's health
59 and safety being the paramount concern, to preserve the family, or some portion thereof, and to

60 prevent or eliminate the need for removing the child from the child's home and to make it possible
61 for the child to safely return home;

62 (C) Whether the department has made reasonable accommodations in accordance with
63 the Americans with Disabilities Act of 1990, 42 U. S. C. § 12101 *et seq.*, to parents with disabilities
64 in order to allow them meaningful access to reunification and family preservation services;

65 (D) What efforts were made or that the emergency situation made those efforts
66 unreasonable or impossible; and

67 (E) The specific circumstances of the situation which made those efforts unreasonable if
68 services were not offered by the department. The court order shall also determine under what
69 circumstances the child's commitment to the department are to continue. Considerations pertinent
70 to the determination include whether the child should:

71 (i) Be considered for legal guardianship;

72 (ii) Be considered for permanent placement with a fit and willing relative; or

73 (iii) Be placed in another planned permanent living arrangement, but only in cases where
74 the child has attained 16 years of age and the department has documented to the circuit court a
75 compelling reason for determining that it would not be in the best interests of the child to follow
76 one of the options set forth in subparagraphs (i) or (ii) of this paragraph. The court may order
77 services to meet the special needs of the child. Whenever the court transfers custody of a youth
78 to the department, an appropriate order of financial support by the parents or guardians shall be
79 entered in accordance with §49-4-801 through §49-4-803 of this code;

80 (6) Upon a finding that there is no reasonable likelihood that the conditions of neglect or
81 abuse can be substantially corrected in the near future, and, when necessary for the welfare of
82 the child, terminate the parental, custodial and guardianship rights and responsibilities of the
83 abusing parent and commit the child to the permanent sole custody of the nonabusing parent, if
84 there be one, or, if not, to either the permanent guardianship of the department or a licensed child
85 welfare agency. The court may award sole custody of the child to a nonabusing battered parent.

86 If the court shall so find, then in fixing its dispositional order the court shall consider the following
87 factors:

88 (A) The child's need for continuity of care and caretakers;

89 (B) The amount of time required for the child to be integrated into a stable and permanent
90 home environment; and

91 (C) Other factors as the court considers necessary and proper. Notwithstanding any other
92 provision of this article, the court shall give consideration to the wishes of a child 14 years of age
93 or older or otherwise of an age of discretion as determined by the court regarding the permanent
94 termination of parental rights. No adoption of a child shall take place until all proceedings for
95 termination of parental rights under this article and appeals thereof are final. In determining
96 whether or not parental rights should be terminated, the court shall consider the efforts made by
97 the department to provide remedial and reunification services to the parent. The court order shall
98 state:

99 (i) That continuation in the home is not in the best interest of the child and why;

100 (ii) Why reunification is not in the best interests of the child;

101 (iii) Whether or not the department made reasonable efforts, with the child's health and
102 safety being the paramount concern, to preserve the family, or some portion thereof, and to
103 prevent the placement or to eliminate the need for removing the child from the child's home and
104 to make it possible for the child to safely return home, or that the emergency situation made those
105 efforts unreasonable or impossible; ~~and~~

106 (iv) Whether or not the department made reasonable efforts to preserve and reunify the
107 family, or some portion thereof, including a description of what efforts were made or that those
108 efforts were unreasonable due to specific circumstances;

109 (v) Language ordering the Department of Health and Human Resources or a successor
110 agency or agencies to collect and archive in the child's adoption file the legal name, date of birth,
111 telephone number, email address, and Social Security number of a biological parent or parents

112 whose parental rights have been terminated by a disposition and language authorizing the release
113 of that information as provided by the provisions of §48-22-803 of this code;

114 (vi) Language authorizing the child's legal guardian, the child once they have obtained the
115 age of majority, or one of the child's lineal descendants, upon a showing of legitimate medical
116 diagnostic need attested to affidavit or other verifiable statement of a licensed medical
117 professional, to request, access, or otherwise obtain the medical records of a biological parent
118 whose parental rights have been terminated by the disposition, and further ordering any such
119 biological parent to cooperate with the acquisition and dissemination of those records upon the
120 showing of legitimate diagnostic medical need; and

121 (7) For purposes of the court's consideration of the disposition custody of a child pursuant
122 to this subsection, the department is not required to make reasonable efforts to preserve the
123 family if the court determines:

124 (A) The parent has subjected the child, another child of the parent, or any other child
125 residing in the same household or under the temporary or permanent custody of the parent to
126 aggravated circumstances which include, but are not limited to, abandonment, torture, chronic
127 abuse, and sexual abuse;

128 (B) The parent has:

129 (i) Committed murder of the child's other parent, guardian, or custodian, another child of
130 the parent, or any other child residing in the same household or under the temporary or permanent
131 custody of the parent;

132 (ii) Committed voluntary manslaughter of the child's other parent, guardian, or custodian,
133 another child of the parent, or any other child residing in the same household or under the
134 temporary or permanent custody of the parent;

135 (iii) Attempted or conspired to commit murder or voluntary manslaughter, or been an
136 accessory before or after the fact to either crime;

137 (iv) Committed a malicious assault that results in serious bodily injury to the child, the
138 child's other parent, guardian, or custodian, to another child of the parent, or any other child
139 residing in the same household or under the temporary or permanent custody of the parent;

140 (v) Attempted or conspired to commit malicious assault, as outlined in subparagraph (iv),
141 or been an accessory before or after the fact to the same;

142 (vi) Committed sexual assault or sexual abuse of the child, the child's other parent,
143 guardian, or custodian, another child of the parent, or any other child residing in the same
144 household or under the temporary or permanent custody of the parent; or

145 (vii) Attempted or conspired to commit sexual assault or sexual abuse, as outlined in
146 subparagraph (vi), or been an accessory before or after the fact to the same.

147 (C) The parental rights of the parent to another child have been terminated involuntarily;

148 (D) A parent has been required by state or federal law to register with a sex offender
149 registry, and the court has determined in consideration of the nature and circumstances
150 surrounding the prior charges against that parent, that the child's interests would not be promoted
151 by a preservation of the family.

152 (d) As used in this section, "No reasonable likelihood that conditions of neglect or abuse
153 can be substantially corrected" means that, based upon the evidence before the court, the
154 abusing adult or adults have demonstrated an inadequate capacity to solve the problems of abuse
155 or neglect on their own or with help. Those conditions exist in the following circumstances, which
156 are not exclusive:

157 (1) The abusing parent or parents have habitually abused or are addicted to alcohol,
158 controlled substances or drugs, to the extent that proper parenting skills have been seriously
159 impaired and the person or persons have not responded to or followed through the recommended
160 and appropriate treatment which could have improved the capacity for adequate parental
161 functioning;

162 (2) The abusing parent or parents have willfully refused or are presently unwilling to
163 cooperate in the development of a reasonable family case plan designed to lead to the child's
164 return to their care, custody, and control;

165 (3) The abusing parent or parents have not responded to or followed through with a
166 reasonable family case plan or other rehabilitative efforts of social, medical, mental health, or
167 other rehabilitative agencies designed to reduce or prevent the abuse or neglect of the child, as
168 evidenced by the continuation or insubstantial diminution of conditions which threatened the
169 health, welfare, or life of the child;

170 (4) The abusing parent or parents have abandoned the child;

171 (5) The abusing parent or parents have repeatedly or seriously injured the child physically
172 or emotionally, or have sexually abused or sexually exploited the child, and the degree of family
173 stress and the potential for further abuse and neglect are so great as to preclude the use of
174 resources to mitigate or resolve family problems, or assist the abusing parent or parents in fulfilling
175 their responsibilities to the child; and

176 (6) The battered parent's parenting skills have been seriously impaired and the person
177 has willfully refused or is presently unwilling or unable to cooperate in the development of a
178 reasonable treatment plan, or has not adequately responded to or followed through with the
179 recommended and appropriate treatment plan.

180 (e) The court may, as an alternative disposition, allow the parents or custodians an
181 improvement period not to exceed six months. During this period the court shall require the parent
182 to rectify the conditions upon which the determination was based. The court may order the child
183 to be placed with the parents, or any person found to be a fit and proper person, for the temporary
184 care of the child during the period. At the end of the period, the court shall hold a hearing to
185 determine whether the conditions have been adequately improved and at the conclusion of the
186 hearing shall make a further dispositional order in accordance with this section.

187 (f) The court may not terminate the parental rights of a parent on the sole basis that the
188 parent is participating in a medication-assisted treatment program, as regulated in §16-5Y-1 *et*
189 *seq. of this code*, for substance use disorder, as long as the parent is successfully fulfilling his or
190 her treatment obligations in the medication-assisted treatment program.

§49-4-607. Consensual termination of parental rights.

1 (a) An agreement of a natural parent in termination of parental rights is valid if made by a
2 duly acknowledged writing, and entered into under circumstances free from duress and fraud.
3 Where during the pendency of an abuse and neglect proceeding, a parent offers voluntarily to
4 relinquish of his or her parental rights, and the relinquishment is accepted by the circuit court, the
5 relinquishment may, without further evidence, be used as the basis of an order of adjudication of
6 abuse and neglect by that parent of his or her children;

7 (b) The Department of Health and Human Resources or successor agency shall, in the
8 event of a voluntary relinquishment that results in the termination of parental rights, collect and
9 archive in the child's adoption file the legal name, date of birth, phone number, email address,
10 and Social Security number of a biological parent whose parental rights are being terminated via
11 voluntary relinquishment;

12 (c) Voluntary relinquishment of parental rights by a biological parent of a child include in
13 the duly acknowledged writing required by subsection (a) of this section language authorizing,
14 and memorializing the consent of the biological parent, to the child's new legal guardian, the child
15 once they have obtained the age of majority, or one of the child's lineal descendants, upon a
16 showing of legitimate medical diagnostic need attested by affidavit or other verifiable statement
17 of a licensed medical professional, to request, access, or otherwise obtain the medical records of
18 a biological parent whose parental rights are being terminated via voluntary relinquishment.