

# **WEST VIRGINIA LEGISLATURE**

## **2024 REGULAR SESSION**

**Introduced**

### **Senate Bill 153**

By Senators Azinger, Boley, Deeds, Hamilton,

Oliverio, Phillips, Rucker, Swope, Tarr, Taylor,

Chapman, Grady, and Jeffries

[Introduced January 10, 2024]

1 A BILL to amend and reenact §48-22-303 of the Code of West Virginia, 1931, as amended; to  
2 amend said code by adding thereto a new section, designated §48-22-803; and to amend  
3 and reenact §49-4-604 and §49-4-607 of said code, all relating to adoption and parental  
4 rights; establishing a procedure for adopted children to obtain a copy of their original birth  
5 certificate and certain personal identifying information regarding their biological parents;  
6 establishing a process by which biological parents can consent to providing personal  
7 identifying information and medical history to children who have been adopted; allowing  
8 biological parents to designate a contact preference; directing the Department of Health  
9 and Human Resources to administer records, collect personal identifying information, and  
10 charge a reasonable fee for the dissemination of noncertified copies of birth certificates;  
11 requiring the Department of Health and Human Resources to track certain information and  
12 report to the Legislative Oversight Commission on Health and Human Resources  
13 Accountability; directing the Department of Health and Human Resources to study the  
14 operation and consider alternative mechanisms to provide adoptive children with access to  
15 the medical records of their biological parents; requiring biological parents whose parental  
16 rights are terminated to provide personal identifying information to the Department of  
17 Health and Human Resources; requiring biological parents whose parental rights are  
18 terminated to provide authorization to their child's new legal guardian, a child who obtains  
19 the age of majority, or their child's lineal descendants to access their medical records upon  
20 a showing of legitimate diagnostic medical need; establishing a requirement that biological  
21 parents who seek to voluntarily relinquish their parental rights 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 Resources  
25 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 §48-22-301 of this code  
2 must be written in plain English or, if the person executing the consent or relinquishment does not  
3 understand English, in the person's primary language. The form of the consent or relinquishment  
4 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 to  
16 the permanent transfer of legal and physical custody of the child to the agency for the purposes of  
17 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 executing  
27 the consent or relinquishment;

28 (11) That the termination of parental rights and obligations is permanent whether or not any  
29 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 eye  
18 defects, major conditions, or major health problems that may be congenital, familial, or genetic;

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

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

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

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

28 *Provided, That, if a biological parent has returned a contact preference and personal identifying*  
29 *information disclosure form containing an affirmative grant of consent to the release of personal*  
30 *identifying information, the department shall release, to either the requestor or an intermediary*  
31 *identified and approved by the biological parent in the contact preference form, a nonredacted,*  
32 *noncertified copy of the adoptee's birth certificate, as well as any personal identifying information*  
33 *for which consent has been granted, such as the biological parent's legal name, current address,*  
34 *phone number, or email address.*

35 (c) An application by a requestor under this section shall be in a form provided by the

36 Department of Health and Human Resources and shall include the following information:

37 (1) The requestor's current name;

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

40 (3) The requestor's address;

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

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

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

44 (7) Satisfactory proof of identification of the identity of the requestor, as determined by the

45 Department of Health and Human Resources;

46 (8) A notarized signature;

47 (9) The requestor's telephone number;

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

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

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

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

62 biological parent shall select one:

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

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

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

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

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

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

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

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

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

105           (h) A biological parent may request at any time that the Department of Health and Human  
106 Resources remove or modify the contact preference and personal identifying information  
107 disclosure form from the adoption file of the adoptee to whom the form pertains. The Department  
108 of Health and Human Resources shall remove or modify the contact preference and personal  
109 identifying information disclosure form upon request and a sufficient showing of the biological  
110 parent's identity.

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

113           (j) The Department of Health and Human Resources may propose legislative rules for

114 promulgation necessary to carry out the purposes of this section in accordance with the provisions  
115 of §29A-3-1 et seq. of this code.

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

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

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

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

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

143 (p) All documents, records, and information obtained via any of the forms or processes  
144 established in this section are to be considered confidential and shall not be subject to disclosure  
145 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 this  
2 code wherein the court finds a child to be abused or neglected, the department shall file with the  
3 court a copy of the child's case plan, including the permanency plan for the child. The term "case  
4 plan" means a written document that includes, where applicable, the requirements of the family  
5 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 or  
29 neglected children. Copies of the child's case plan shall be sent to the child's attorney and parent,  
30 guardian, or custodian or their counsel at least five days prior to the dispositional hearing. The  
31 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 the  
52 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 and  
59 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 one  
76 of the options set forth in subparagraphs (i) or (ii) of this paragraph. The court may order services  
77 to meet the special needs of the child. Whenever the court transfers custody of a youth to the  
78 department, an appropriate order of financial support by the parents or guardians shall be entered  
79 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 the  
82 child, terminate the parental, custodial and guardianship rights and responsibilities of the abusing  
83 parent and commit the child to the permanent sole custody of the nonabusing parent, if there be  
84 one, or, if not, to either the permanent guardianship of the department or a licensed child welfare  
85 agency. The court may award sole custody of the child to a nonabusing battered parent. If the court  
86 shall so find, then in fixing its dispositional order the court shall consider the following factors:

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

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

90 (C) Other factors as the court considers necessary and proper. Notwithstanding any other  
91 provision of this article, the court shall give consideration to the wishes of a child 14 years of age or  
92 older or otherwise of an age of discretion as determined by the court regarding the permanent  
93 termination of parental rights. No adoption of a child shall take place until all proceedings for

94 termination of parental rights under this article and appeals thereof are final. In determining  
95 whether or not parental rights should be terminated, the court shall consider the efforts made by  
96 the department to provide remedial and reunification services to the parent. The court order shall  
97 state:

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

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

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

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

108 (v) Language ordering the Department of Health and Human Resources or a successor  
109 agency or agencies to collect and archive in the child's adoption file the legal name, date of birth,  
110 telephone number, email address, and Social Security number of a biological parent or parents  
111 whose parental rights have been terminated by a disposition and language authorizing the release  
112 of that information as provided by the provisions of §48-22-803 of this code;

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

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

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

127 (B) The parent has:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

170 (5) The abusing parent or parents have repeatedly or seriously injured the child physically  
171 or emotionally, or have sexually abused or sexually exploited the child, and the degree of family

172 stress and the potential for further abuse and neglect are so great as to preclude the use of  
173 resources to mitigate or resolve family problems, or assist the abusing parent or parents in fulfilling  
174 their responsibilities to the child; and

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

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

186 (f) The court may not terminate the parental rights of a parent on the sole basis that the  
187 parent is participating in a medication-assisted treatment program, as regulated in §16-5Y-1 *et*  
188 *seq. of this code*, for substance use disorder, as long as the parent is successfully fulfilling his or  
189 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, and  
10 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 the  
13 duly acknowledged writing required by subsection (a) of this section language authorizing, and  
14 memorializing the consent of the biological parent, to the child's new legal guardian, the child once  
15 they have obtained the age of majority, or one of the child's lineal descendants, upon a showing of  
16 legitimate medical diagnostic need attested by affidavit or other verifiable statement of a licensed  
17 medical professional, to request, access, or otherwise obtain the medical records of a biological  
18 parent whose parental rights are being terminated via voluntary relinquishment.