

WEST VIRGINIA LEGISLATURE

2026 REGULAR SESSION

Committee Substitute

for

House Bill 4489

By Delegates G. Howell, Bell, Jeffries, and Street

[Originating in the Committee on Energy and Public

Works then Finance; Reported on -----, 2026]

A BILL to amend and reenact §16-5-5, §16-5-29, and §16-5-34 of the Code of West Virginia, 1931, as amended; and to amend **the** code by adding a new section, designated §16-5-39, relating to authorizing the Division of Motor Vehicles to issue certain vital records in the custody of the State Registrar; requiring the Division of Motor Vehicles to adhere to the State Registrar's rules; authorizing the Division of Motor Vehicles to collect a fee for issuing vital records, providing a fee structure, and directing the Division to transmit those fees to the State Registrar monthly; defining terms; creating a special revenue account for receipt of those fees and providing requirements for dispersal of those fees; requiring the State Registrar to create a certificate of divorce and providing the requirements for that certificate; requiring the Cabinet Secretary of the Department of Health and Commissioner of the Division of Motor Vehicles to enter into a Memorandum of Understanding to implement a program that allows the Division of Motor Vehicles access to certain vital records to issue to customers; providing the guidelines to be followed in that Memorandum, including security guidelines; providing requirements for the use of certain paper for printing the relevant vital record documents; specifying that the State Registrar shall remain the sole legal custodian of all vital records and providing oversight of the Division of Motor Vehicles access to these records; .providing eligibility standards must mirror those of the State Registrar; and providing for auditing of issuance activities by the State Auditor and the compilation and distribution of an annual report.

Be it enacted by the Legislature of West Virginia:

ARTICLE. VITAL STATISTICS.

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

(a) The State Registrar shall:

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

(2) Direct and supervise the system of vital statistics and the operation of the section of

vital statistics, and act as custodian of its records;

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

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

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

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

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

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

(b) Beginning July 1, 2027, the Division of Motor Vehicles shall be authorized to issue records of birth, death, marriage or divorce, in the custody of the State Registrar. The Division of Motor Vehicles, when issuing a record of birth, death, marriage, or divorce, shall be subject to the State Registrar's rules.

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

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

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

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

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

11 (d) Subject to the provisions set forth in section two, article two, chapter twelve of this code,
12 there is hereby continued in the state Treasury a separate account which shall be designated "the
13 vital statistics account."

14 (e) (1) After July 1, 2006, and subject to the provisions set forth in section two, article two,
15 chapter twelve of this code, there is established in the state Treasury a separate account which
16 shall be designated "the vital statistics improvement fund." Funds deposited in this account will be
17 used to modernize and automate the system of vital statistics in this state and may not be used to
18 supplant existing funding necessary for the daily operation of the system of vital statistics. Funds in

this account will be retained in a nonlapsing fund for the improvement of the system of vital statistics.

(2) After July 1, 2027, and subject to the provisions set forth in §12-2-7 of this code, there is established in the state Treasury a separate account which shall be designated "the DMV vital records fund." Funds deposited in this account will be used to administer the issuance of certified copies of vital records by the Division. Funds in this account will be retained in a nonlapsing fund for this purpose.

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

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

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

(i) (1) Notwithstanding the provisions of subsection (a) of this section, when a certified copy of a vital record is issued by the Division of Motor Vehicles pursuant to §16-5-39 of this code, the following fee structure shall apply.

(2) The Division of Motor Vehicles shall collect a minimum fee of \$12 plus the actual cost the State Registrar collects for any copy of a vital record. For each copy of a vital record that the Division of Motor Vehicles issues, it shall retain \$12 and shall transmit the actual cost of providing a vital record to the State Registrar on a monthly basis to ensure that the State Registrar recovers

all costs associated with the issuance of certified copies of vital records at Division of Motor Vehicles facilities. "Actual cost" means the per-record fee established by the State Registrar to recover the direct costs associated with issuing certified copies of vital records, including database access, system maintenance, certification, and security features, as set forth in rules promulgated by the State Registrar.

(3) The Division of Motor Vehicles shall not establish, modify, supplement, or independently adjust any fee associated with the issuance of certified copies of vital records.

(4) The Division of Motor Vehicles shall deposit the portion of fees it is authorized to retain into a special revenue account within the State Treasury, subject to legislative appropriation, for the administration of the provisions of this section relating to the issuance of certified copies of vital records.

§16-5-34. Uniform system of registration of marriage, divorce and annulment of marriage.

(a) To encourage an efficient and uniform system of registration of marriage, divorce and annulment of marriage may be established in this state, the state Registrar shall provide for the registration of each marriage, divorce and annulment of marriage which occurs in this state.

(b) The commissioner may, subject to legislative rule:

(1) Install a statewide system of registering, indexing, and preserving records of marriage, divorce and annulment of marriage;

(2) Give instructions, and prescribe and furnish forms, for collecting, transcribing, compiling and preserving records and statistics of marriage, divorce and annulment of marriage; and

(3) Make and publish a statistical report of marriage, divorce and annulment of marriage in this state.

(c) Beginning on July 1, 2027, the Commissioner may issue certificates of divorce, which memorialize the dissolution of the marriage, and which shall contain the names of the parties, the date of dissolution, the court under whose authority the divorce was granted and any changes of

name by either of the parties. These shall stand as a valid public record within this state for purposes of proving a change of name.

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

(a) (1) The Commissioner of the Division of Motor Vehicles shall be authorized to issue certified copies of birth, death, marriage and divorce records in the custody of the State Registrar. Issuance authority under this section is limited to vital records that are available in electronic form and authorized for issuance by the State Registrar. Access to vital records systems by the Division of Motor Vehicles shall be limited to transaction-specific access necessary to issue authorized records and shall comply with least-privilege security standards, logging, monitoring, and breach reporting requirements.

(2) Notwithstanding any other provision of law, the authority granted to the Division of Motor Vehicles under this section shall take effect July 1, 2027. The Division of Motor Vehicles and the Department of Health shall, if necessary, propose rules for legislative approval and promulgate emergency rules in accordance with the provisions of §29A-3-1 *et seq.* of this code to implement the provisions of this section.

(b) (1) Prior to July 1, 2027, the Cabinet Secretary of the Department of Health or his or her designee and the Commissioner of the Division of Motor Vehicles or his or her designee shall enter into a memorandum of understanding to successfully develop and implement a program that shall allow the Division of Motor Vehicles to issue certified copies of vital records that are in electronic form, including a comprehensive plan with defined responsibilities for each agency. The memorandum of understanding and any required legislative rules shall be executed and promulgated sufficiently in advance of that date to ensure uninterrupted statewide implementation.

(2) The memorandum of understanding shall include, at a minimum:

(A) provisions to ensure that the integrity and security of the system of vital records is maintained, and shall specify access controls;

(B) audit requirements and audit procedures;

24 (C) inventory and security paper usage monitoring requirements, including access
25 controls;

26 (D) training requirements including the proper methods for issuing certified copies of vital
27 records, assessing the eligibility of a requester to obtain a certified copy of a vital record, and
28 verifying the identification of the requester; and

29 (E) compliance monitoring procedures.

30 (c) Certified documents issued by the Division of Motor Vehicles pursuant to this section
31 shall be printed on common bonded security paper approved by the State Registrar.

32 The documents shall prominently display the words "Certificate of", followed by the
33 applicable document type, including title, birth, death, marriage, or divorce, and shall meet all
34 authentication and security standards established by the State Registrar.

35 The format shall permit printing on standard office printers and shall not require specialized
36 or dedicated printing equipment, provided all certification, security, and audit requirements are
37 met.

38 (d) (1) The State Registrar shall remain the sole legal custodian of all vital records. The
39 Division of Motor Vehicles is authorized solely to act as a noncustodial issuing agent pursuant to
40 this section.

41 (2) The Division of Motor Vehicles shall be responsible for errors, improper issuance, or
42 procedural deficiencies arising from its issuance activities. The State Registrar shall remain
43 responsible for the integrity, accuracy, and security of the underlying system of vital records.

44 (3) (A) If the State Registrar identifies noncompliance, procedural errors, or administrative
45 deficiencies related to issuance by the Division of Motor Vehicles, the Registrar shall provide
46 written notice specifying the deficiencies. The Division of Motor Vehicles shall have 30 days from
47 receipt of notice to correct the identified issues.

48 (B) During the correction period, issuance of certified copies of vital records shall continue
49 uninterrupted, unless the State Registrar determines that continued issuance would result in an

50 imminent risk of unlawful disclosure of protected records.

51 (C) If the deficiencies are not corrected within the 30-day period, the State Registrar may
52 require the Division of Motor Vehicles to submit a corrective action plan, including timelines,
53 training measures, or procedural adjustments, and may conduct enhanced monitoring or audits to
54 ensure compliance.

55 (D) Issuance authority may not be suspended or terminated solely due to administrative or
56 procedural deficiencies absent a finding of imminent risk to the confidentiality or lawful issuance of
57 vital records.

58 (4) (A) The Division of Motor Vehicles shall apply eligibility standards for the issuance of
59 certified copies of vital records strictly in accordance with the rules of the State Registrar and shall
60 not exercise independent discretion in determining eligibility.

61 (B) The Division of Motor Vehicles may not issue sealed records, adoption-related records,
62 confidential amendments, or any vital record otherwise restricted by law or by rule of the State
63 Registrar.

64 (5) Issuance activities under this section shall be subject to audit by the State Auditor. The
65 Division of Motor Vehicles and the State Registrar shall prepare and make available an annual
66 report detailing issuance volume, revenue collected, audit findings, and corrective actions taken.

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 Department of Health to enter into a Memorandum of Understanding to implement a program that allows the Department of Health 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.