

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

H. B. 4546

(By Delegates Caputo and Manchin)

[By Request of the Department of
Health and Human Resources]

[Introduced February 15, 2012; referred to the
Committee on the Judiciary.]

A BILL to amend and reenact §48-23-101, §48-23-102, §48-23-401,
§48-23-402, §48-23-501, §48-23-502, §48-23-503, §48-23-504 and
§48-23-506 of the Code of West Virginia, 1931, as amended, all
relating to including adult siblings of an adoptee in the
mutual consent voluntary adoption registry.

Be it enacted by the Legislature of West Virginia:

That sections §48-23-101, §48-23-102, §48-23-401, §48-23-402,
§48-23-501, §48-23-502, §48-23-503, §48-23-504 and §48-23-506 of
the Code of West Virginia, 1931, as amended, be amended and
reenacted, all to read as follows:

ARTICLE 23. VOLUNTARY ADOPTION REGISTRY.

Part I. General Provisions.

**§48-23-101. Policy regarding persons obtaining identifying
information after adoption.**

(a) Adoption is based upon the legal termination of parental

1 rights and responsibilities of birth parents and the creation of
2 the legal relationship of parent and child between an adoptee and
3 his or her adoptive parents. These legal and social premises
4 underlying adoption must be maintained. The Legislature recognizes
5 that some adults who were adopted as children have a strong desire
6 to obtain identifying information about their birth parents while
7 other such adult adoptees have no such desire. The Legislature
8 further recognizes that some birth parents have a strong desire to
9 obtain identifying information about their biological children who
10 were surrendered for adoption, while other birth parents have no
11 such desire. The Legislature also recognizes that some adults who
12 were adopted as children have a strong desire to obtain identifying
13 information about their natural siblings.

14 (b) The Legislature fully recognizes the right to privacy and
15 confidentiality of:

16 (1) Birth parents whose children were adopted;

17 (2) The adoptees; ~~and~~

18 (3) The adoptive parents; and

19 (4) The siblings of the adoptee.

20 **§48-23-102. Legislative purpose.**

21 The purpose of this article is to:

22 (1) Set up a mutual consent voluntary adoption registry where
23 birth parents, adult siblings and adult adoptees may register their
24 willingness to the release of identifying information to each

1 other;

2 (2) To provide for the disclosure of such identifying
3 information to birth parents, adult siblings or adoptees or both,
4 through a social worker employed by a licensed adoption agency,
5 provided each birth parent and the adult adoptee voluntarily
6 registers on his or her own; and

7 (3) To provide for the transmission of non-identifying health
8 and social and genetic history to the adult adoptees, adult
9 siblings, birth parents and other specified persons; and

10 (4) To provide for disclosure of identifying information for
11 cause shown.

12 Part IV. Use of the Voluntary Adoption Registry.

13 **§48-23-401. Persons to whom use of the mutual consent voluntary**
14 **adoption registry is available.**

15 Use of the mutual consent voluntary adoption registry for obtaining
16 identifying information about birth parents, adult siblings and
17 adult adoptees is available to birth parents, adult siblings and
18 adult adoptees, except as otherwise limited by section 23-402.

19 **§48-23-402. Age limitations on use of the mutual consent**
20 **voluntary adoption registry.**

21 (a) A birth parent is not eligible to use the registry until
22 his or her child who was adopted is eighteen years of age or older.

23 (b) An adult adoptee is not eligible to use the registry if he

1 or she has a sibling in his or her adoptive family who is under the
2 age of eighteen years.

3 (c) An adult sibling is not eligible to use the registry until
4 he or she is eighteen years of age or older.

5 Part V. Operation of the Voluntary Adoption Registry.

6 **§48-23-501. Prerequisites to disclosure of identifying**
7 **information.**

8 The adult adoptee, adult sibling and each birth parent may
9 voluntarily, without having been contacted by any employee or agent
10 of the entity operating the registry, place his or her name in the
11 appropriate registry before any disclosure or identifying
12 information can be made. A qualified person may register by
13 submitting a notarized affidavit to the appropriate registry
14 stating his or her name, address and telephone number and his or
15 her willingness to be identified solely to the other relevant
16 persons who register. No registration may be accepted until the
17 prospective registrant submits satisfactory proof of his or her
18 identity in accord with the provisions specified in section 23-601
19 of this article. The failure of any of the ~~three~~ four above
20 described persons to file a notarized affidavit with the registry
21 for any reason, including death or disability, precludes the
22 disclosure of identifying information to those relevant persons who
23 do register.

24 **§48-23-502. Counseling of registrants.**

1 Upon registering, the registrant shall participate in not less
2 than one hour of counseling with a social worker employed by the
3 entity that operates the registry, except if a birth parent, or
4 adult adoptee or adult sibling is domiciled outside the state, he
5 or she shall obtain counseling from a social worker employed by a
6 licensed agency in that other state selected by the entity that
7 operates the registry. When an eligible person registers concerning
8 an adoption that was arranged through an agency which has not
9 merged or otherwise ceased operations, and that same agency is not
10 operating the registry, the entity operating the registry shall
11 notify by certified mail the agency which handled the adoption
12 within ten business days after the date of registration.

13 **§48-23-503. Cases where disclosure of identifying information**
14 **cannot occur.**

15 In any case where the identity of the birth father was unknown
16 to the birth mother, or where the administrator learns that one or
17 both of the birth parents or one or more adult siblings of the
18 adoptee are deceased, this information shall be shared with the
19 adult adoptee. In these kinds of cases, the adoptee will not be
20 able to obtain identifying information through the registry, and he
21 or she would be told of his or her right to pursue whatever right
22 otherwise exists by law to petition a court to release the
23 identifying information.

24 **§48-23-504. Matching and disclosure procedures.**

1 (a) Each mutual consent voluntary adoption registry must be
2 operated under the direction of an administrator.

3 (b) A person eligible to register may request the
4 administrator to disclose identifying information by filing an
5 affidavit which sets forth the following:

6 (1) The current name and address of the affiant;

7 (2) Any previous name by which the affiant was known;

8 (3) The original and adopted names, if known, of the adopted
9 child;

10 (4) The place and date of birth of the adopted child; or

11 (5) The name and address of the adoption agency or other
12 entity, organization or person placing the adopted child, if known.

13 (c) The affiant shall notify the registry of any change in
14 name or location which occurs subsequent to his or her filing the
15 affidavit. The registry has no duty to search for an affiant who
16 fails to register his or her most recent address.

17 (d) The administrator of the mutual consent voluntary adoption
18 registry shall process each affidavit in an attempt to match the
19 adult adoptee and the birth parents. Such processing shall include
20 research from agency records, when available, and when agency
21 records are not available, research from court records to determine
22 conclusively whether the affiants match.

23 (e) The administrator shall determine that there is a match
24 when the adult adoptee and the birth mother, or the adult adoptee

1 and the birth father, or the adult adoptee and the adult siblings
2 have each filed affidavits with the mutual consent voluntary
3 adoption registry and have each received the counseling required in
4 section 23-502.

5 (f) When a match has taken place, the department shall
6 directly notify all parties through a direct and confidential
7 contact. The contact shall be made by an employee or agent of the
8 agency receiving the assignment and shall be made face to face,
9 rather than by mail, telephone or other indirect means. The
10 employee or agent shall be a trained social worker who has
11 expertise in post-legal adoption services.

12 **§48-23-506. Scope of information obtained by the mutual consent**
13 **voluntary adoption registry.**

14 A mutual consent voluntary adoption registry shall obtain only
15 information necessary for identifying a birth parent, adult sibling
16 or adult adoptee and in no event shall obtain information of any
17 kind pertaining to the adoptive parents, any siblings to the adult
18 adoptee who are children of the adoptive parents, the income of
19 anyone and reasons for adoptive placement.

NOTE: The purpose of this bill is to add adult siblings of an
adoptee as an individual who can place his or her name on the
voluntary adoption registry.

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