

WEST VIRGINIA LEGISLATURE

2019 REGULAR SESSION

Introduced

House Bill 2313

BY DELEGATE SPONAUGLE AND MILEY

[Introduced January 11, 2019; Referred
to the Committee on Health and Human Resources
then the Judiciary.]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,
2 designated §48-22-803, relating to adoption records; authorizing adult adoptees access
3 to certain records; requiring birth parents to provide certain health information; allowing
4 birth parents to designate a contact preference and allowing them to provide certain
5 information; directing the Department of Health and Human Resources to administer
6 records, require additional information, and charge a reasonable fee; providing a
7 procedure for the collection and dissemination of information; and authorizing the
8 Department of Health and Human Resources to promulgate legislative rules.

Be it enacted by the Legislature of West Virginia:

ARTICLE 22. ADOPTION.

§48-22-803. Birth parent contact preference disclosure.

1 (a) Notwithstanding any other provision of law, an adoptee who is at least 18 years of age
2 and who has graduated from high school, completed a General Educational Development
3 program or has legally withdrawn from secondary schooling or, if the adoptee is deceased, the
4 adoptee's descendants, may apply to the Department of Health and Human Resources for the
5 adoptee's noncertified copy of original birth record. Subject to §48-22-803(b) and §48-22-803(c)
6 of this code, the Department of Health and Human Resources shall issue a noncertified copy of
7 original birth record within 45 days of receipt of an application if the application complies with the
8 requirements of §48-22-803(d) of this code.

9 (b) The Department of Health and Human Resources shall develop and, upon request,
10 make available to each birth parent named on the original birth certificate a contact preference
11 form on which the birth parent may state a preference regarding contact by an adoptee who is
12 the birth child of the birth parent. Upon such request, the Department of Health and Human
13 Resources shall also provide the birth parent with an updated medical history form, which shall
14 be completed and returned, together with the completed contact preference form, by the birth
15 parent to the Department of Health and Human Resources. The contact preference form shall

16 provide the birth parent with options, in substantially the following form, from which the birth parent
17 shall select one:

18 (1) I would like to be contacted. I have completed the contact preference form and an
19 updated medical history form and am filing them with the Department of Health and Human
20 Resources;

21 (2) I would prefer to be contacted only through an intermediary. I have completed the
22 contact preference form and an updated medical history form and am filing them with the
23 Department of Health and Human Resources; or

24 (3) Do not contact me. I may change this preference by filling out another contact
25 preference form. I have completed the contact preference form and an updated medical history
26 form and am filing them with the Department of Health and Human Resources.

27 (c) A birth parent may request that the birth parent's name be redacted from a noncertified
28 copy of original birth record issued to an adoptee in accordance with the following:

29 (1) The Department of Health and Human Resources shall prescribe a birth parent's name
30 redaction request form. The form shall include all of the following:

31 (A) Information about the procedures and requirements for a birth parent to do either of
32 the following:

33 (i) Have the form placed in the adoption file of the adoptee who is the birth child of the
34 birth parent so that the birth parent's name is redacted from the noncertified copy of original birth
35 record issued to the adoptee; or

36 (ii) Have the form removed from the adoption file of the adoptee if the birth parent later
37 decides to permit the birth parent's name to be included on the noncertified copy of original birth
38 record.

39 (B) Provisions necessary for the Department of Health and Human Resources to be able
40 to identify the adoption file of the adoptee to whom the form pertains.

41 (C) A place for the birth parent to attest that the birth parent is the birth parent of the

42 adoptee to whom the form pertains.

43 (2) The Department of Health and Human Resources shall make a birth parent's name
44 redaction request form available upon request following the effective date of this section. The
45 Department of Health and Human Resources shall accept a name redaction request form if:

46 (A) The form has been notarized;

47 (B) The birth parent provides two items of identification of the birth parent;

48 (C) If a medical history for the birth parent was not previously prepared, or the medical
49 history was prepared but needs to be updated, the birth parent does the following, as appropriate:

50 (i) Completes a medical history form; and

51 (ii) Updates the birth parent's medical history information.

52 (D) The Department of Health and Human Resources is satisfied that the form has been
53 substantially completed.

54 (3) The Department of Health and Human Resources shall file an accepted name
55 redaction request form in the adoption file of the adoptee to whom the form pertains.

56 (4) A birth parent may request at any time that the Department of Health and Human
57 Resources remove the name redaction request form from the adoption file of the adoptee to whom
58 the form pertains. The Department of Health and Human Resources shall remove the form if the
59 birth parent provides the department all of the following:

60 (A) Two items of identification of the birth parent;

61 (B) Information the Department of Health and Human Resources needs to be able to
62 identify the adoption file of the adoptee to whom the form pertains; and

63 (C) A notarized attestation that the birth parent is the birth parent of the adoptee to whom
64 the form pertains.

65 (5) A name redaction request form removed from an adoption file shall be destroyed.

66 (6) The Department of Health and Human Resources shall include on its Internet website
67 information about birth parents' name redaction request forms. All of the following information

68 shall be provided:

69 (A) The purpose of the form;

70 (B) The procedures to be followed and requirements to be met for the Department of
71 Health and Human Resources to accept the form;

72 (C) The date when birth parents may begin to file the form with the Department of Health
73 and Human Resources;

74 (D) The procedures to be followed and requirements to be met for having the form
75 removed from an adoption file; and

76 (E) Any other information the Department of Health and Human Resources considers
77 necessary; and

78 (7) If the birth parent dies after submitting a name redaction request form, a noncertified
79 copy of original birth record may be provided to the adoptee without redaction of the deceased
80 birth parent's name.

81 (d) An application under §48-22-803(a) of this code shall be in a form acceptable to the
82 Department of Health and Human Resources and shall include the following information:

83 (1) The adoptee's current name and name assumed at the time of adoption;

84 (2) The adoptee's address;

85 (3) The adoptee's age and date of birth;

86 (4) The adoptee's gender at birth;

87 (5) Proof of identification;

88 (6) The adoptee's telephone number; and

89 (7) Any other information required by the Department of Health and Human Resources,
90 but only to the extent the information is necessary for the Department of Health and Human
91 Resources to verify the identity of the applicant, locate the relevant records or provide the
92 adoptee's noncertified copy of original birth record to the adoptee.

93 (e) The Department of Health and Human Resources may promulgate legislative rules

94 necessary to comply with this section.

95 (f) The Department of Health and Human Resources may charge a fee for issuing a
96 noncertified copy of original birth record as required by this section. The fee charged shall not
97 exceed the fee for a certified copy of an original birth record.

98 (g) Nothing in this section shall be construed to permit disclosure of an adoptee's birth
99 record to the birth parents of an adoptee.

NOTE: The purpose of this bill is to revise current law relating to access to adoption records by adoptees; authorizing adult adoptees access to certain records; requiring birth parents to provide certain health information at time of adoption; allowing birth parents to designate a contact; directing the Department of Health and Human Resources to administer collection of records, require additional information and charge a reasonable fee for records copies; providing a procedure for collection and disseminate information; and authorizing the Department of Health and Human Resources to promulgate legislative rules needed to administer the program.

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