

# **WEST VIRGINIA LEGISLATURE**

## **2021 REGULAR SESSION**

**Introduced**

### **House Bill 2312**

BY DELEGATE FOSTER

[Introduced February 12, 2021; Referred to the  
Committee on the Health and Human Resources then  
then the Judiciary]

1 A BILL to amend and reenact §48-9-601 of the Code of West Virginia, 1931, as amended, relating  
 2 to ensuring that legal or biological parents have equal access to any and all copies of birth  
 3 registry forms submitted to the hospital by the mother, or any other person, for the purpose  
 4 of registering the birth of the child with the West Virginia Vital Registration Office.

*Be it enacted by the Legislature of West Virginia:*

**ARTICLE 9. ALLOCATION OF CUSTODIAL RESPONSIBILITY AND DECISION-  
 MAKING RESPONSIBILITY OF CHILDREN.**

**PART 6. MISCELLANEOUS PROVISIONS.**

**§48-9-601. Access to a child’s records.**

1 (a)(1) Each parent has full and equal access to a child’s educational records absent a  
 2 court order to the contrary. Neither parent may veto the access requested by the other parent.  
 3 Educational records are academic, attendance and disciplinary records of public and private  
 4 schools in all grades kindergarten through 12 and any form of alternative school. Educational  
 5 records are any and all school records concerning the child that would otherwise be properly  
 6 released to the primary custodial parent, including, but not limited to, report cards and progress  
 7 reports, attendance records, disciplinary reports, results of the child’s performance on  
 8 standardized tests and statewide tests and information on the performance of the school that the  
 9 child attends on standardized statewide tests; curriculum materials of the class or classes in which  
 10 the child is enrolled; names of the appropriate school personnel to contact if problems arise with  
 11 the child; information concerning the academic performance standards, proficiencies, or skills the  
 12 child is expected to accomplish; school rules, attendance policies, dress codes and procedures  
 13 for visiting the school; and information about any psychological testing the school does involving  
 14 the child.

15 (2) In addition to the right to receive school records, the nonresidential parent has the right  
 16 to participate as a member of a parent advisory committee or any other organization comprised

17 of parents of children at the school that the child attends.

18 (3) The nonresidential parent or noncustodial parent has the right to question anything in  
19 the child's record that the parent feels is inaccurate or misleading or is an invasion of privacy and  
20 to receive a response from the school.

21 (4) Each parent has a right to arrange appointments for parent-teacher conferences  
22 absent a court order to the contrary. Neither parent can be compelled against their will to exercise  
23 this right by attending conferences jointly with the other parent.

24 (b)(1) Each parent has full and equal access to a child's medical records absent a court  
25 order to the contrary. Neither parent may veto the access requested by the other parent. If  
26 necessary, either parent is required to authorize medical providers to release to the other parent  
27 copies of any and all information concerning medical care provided to the child which would  
28 otherwise be properly released to either parent. For the purposes of the provisions of this code,  
29 any and all copies, including prior drafts or versions subsequently removed or deleted from any  
30 hospital files, and all information contained therein, of the birth registry forms submitted to the  
31 hospital by the mother or any other person, for the purposes of registering the birth of a child with  
32 the West Virginia Vital Registration Office, are deemed part of the child's medical records and are  
33 fully accessible, without limitation or reservation, to each legal and or biological parent.

34 (2) If the child is in the actual physical custody of one parent, that parent is required to  
35 promptly inform the other parent of any illness of the child which requires medical attention.

36 (3) Each parent is required to consult with the other parent prior to any elective surgery  
37 being performed on the child, and in the event emergency medical procedures are undertaken for  
38 the child which require the parental consent of either parent, if time permits, the other parent shall  
39 be consulted, or if time does not permit such consultation, the other parent shall be promptly  
40 informed of the emergency medical procedures: *Provided*, That nothing contained herein alters  
41 or amends the law of this state as it otherwise pertains to physicians or health care facilities  
42 obtaining parental consent prior to providing medical care or performing medical procedures.

43           (c) Each parent has full and equal access to a child's juvenile court records, process and  
44 pleadings, absent a court order to the contrary. Neither parent may veto any access requested  
45 by the other parent. Juvenile court records are limited to those records which are normally  
46 available to a parent of a child who is a subject of the juvenile justice system.

NOTE: The purpose of this bill is to ensure that legal or biological parents have equal access to any and all copies of birth registry forms submitted to the hospital by the mother, or any other person, for the purpose of registering the birth of the child with the West Virginia Vital Registration Office.

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