

# **WEST VIRGINIA LEGISLATURE**

## **2023 REGULAR SESSION**

**Introduced**

### **Senate Bill 470**

By Senators Azinger, Maynard, and Karnes

[Introduced January 25, 2023; referred  
to the Committee on 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 making adoption records accessible for medical  
 3 purposes; authorizing adult adoptees access to certain records, including adoption records  
 4 and medical history; requiring birth parents to provide certain health information; allowing  
 5 birth parents to designate a contact preference and allowing them to provide certain  
 6 information; allowing birth parents to request name redaction; providing for a name  
 7 redacting process; directing the Department of Health and Human Resources to  
 8 administer records, require additional information, and charge a reasonable fee; providing  
 9 a procedure for the collection and dissemination of information; providing for the tracking of  
 10 information and reporting to the Legislative Oversight Commission on Health and Human  
 11 Resources Accountability; and authorizing the Department of Health and Human  
 12 Resources to promulgate legislative rules.

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

**ARTICLE**

**22.**

**ADOPTION.**

**§48-22-803. Definitions, Birth parent contact preference disclosure, redaction form, immunity.**

1 (a) For purposes of this section, the following words have the ascribed meanings:  
 2 Adult adoptee means an adoptee who is at least 18 years of age and who has graduated  
 3 from high school, completed a Test Assessing Secondary Completion program or has legally  
 4 withdrawn from secondary schooling.  
 5 Adoption file means a file maintained by the Department of Health and Human Resources  
 6 that may contain an original birth certificate and adoption decree of an adoptee.  
 7 Lineal descendant means a person who by reason of blood or adoption is in the direct line  
 8 of descent of a person.  
 9 Medical history means a comprehensive report on the birth parents and any parents of the  
 10 birth parent, that shall include, but not be limited to, the following: Medical history, health status,

11 cause and age at death, height, weight, major diseases, allergies, ear or eye defects, major  
12 conditions, major health problems that may be congenital, familiar, or genetic.

13 Requestor means a person who requests an adoption file under this section and is:

14 (1) The adult adoptee as set forth in this section; or

15 (2) A lineal descendent of a deceased adult adoptee as set forth in this section to whom the  
16 adoption file pertains.

17 (b) Notwithstanding any other provision of law, beginning on or after July 1, 2023, a  
18 requestor may apply to the Department of Health and Human Resources for the adult adoptee's  
19 noncertified copy of original birth record. Subject to this section, the Department of Health and  
20 Human Resources shall issue a noncertified copy of original birth record within 45 days of receipt  
21 of an application if the application complies with the requirements of subsection (g) of this section.

22 (c) An application under this section shall be in a form provided by the Department of  
23 Health and Human Resources and shall include the following information:

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

25 (2) The adoptee's address;

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

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

28 (5) Satisfactory proof of identification as determined by the Department of Health and  
29 Human Resources;

30 (6) A notarized signature;

31 (7) The adoptee's telephone number;

32 (8) If the requestor is a lineal descent, then the requestor shall provide a birth certificate or  
33 other acceptable documentation evidencing the requestor's relationship to the adoptee; and

34 (9) Any other information required by the Department of Health and Human Resources but  
35 only to the extent the information is necessary for the Department of Health and Human

36 Resources to verify the identity of the requestor, locate the relevant records or provide the  
37 adoptee's noncertified copy of original birth record to the adoptee.

38 (d) The Department of Health and Human Resources shall develop and make available on  
39 its website an application for noncertified birth certificate, a contact preference form for the  
40 disclosure of medical history, and a name redaction request form. The Department of Health and  
41 Human Resources shall make hard copy forms available to the public. The contact preference  
42 form shall provide the birth parent with options, in substantially the following form, from which the  
43 birth parent shall select one:

44 (1) I would like to be contacted. I have completed the contact preference form and an  
45 updated medical history form and consent to filing them with the Department of Health and Human  
46 Resources;

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

50 (3) Do not contact me. I understand that I may change this preference by filling out another  
51 contact preference form. I have completed the contact preference form. I have an updated medical  
52 history form and consent to filing a redacted form with the Department of Health and Human  
53 Resources.

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

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

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

60 (i) Have the form placed in the adoption file of the adoptee who is the birth child of the birth  
61 parent so that the birth parent's name is redacted from the noncertified copy of original birth record

62 issued to the adoptee; or

63 (ii) Have the form removed from the adoption file of the adoptee if the birth parent later  
64 decides to permit the birth parent's name to be included on the noncertified copy of original birth  
65 record;

66 (B) Provisions necessary for the Department of Health and Human Resources to be able to  
67 identify the adoption file of the adoptee to whom the form pertains; and

68 (C) A place for the birth parent to attest that the birth parent is the birth parent of the  
69 adoptee to whom the form pertains;

70 (2) The Department of Health and Human Resources shall make a birth parent's name  
71 redaction request form available upon request no later than October 1, 2023. The Department of  
72 Health and Human Resources shall accept a name redaction request form if:

73 (A) The form has been notarized;

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

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

77 (i) Completes a medical history form; and

78 (ii) Updates the birth parent's medical history information; and

79 (D) The Department of Health and Human Resources is satisfied that the form has been  
80 substantially completed upon the birth parent's request, this form shall be redacted.

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

83 (g) A birth parent may request at any time that the Department of Health and Human  
84 Resources remove the name redaction request form from the adoption file of the adoptee to whom  
85 the form pertains. The Department of Health and Human Resources shall remove the form if the  
86 birth parent provides the department all of the following:

87 (1) Two items of identification of the birth parent;

88 (2) Information the Department of Health and Human Resources needs to be able to  
89 identify the adoption file of the adoptee to whom the form pertains; and

90 (3) A notarized attestation that the birth parent is the birth parent of the adoptee to whom  
91 the form pertains.

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

93 (i) The Department of Health and Human Resources name redaction request forms shall  
94 include all of the following information:

95 (1) The purpose of the form;

96 (2) The procedures to be followed and requirements to be met for the Department of Health  
97 and Human Resources to accept the form;

98 (3) The date when birth parents may begin to file the form with the Department of Health  
99 and Human Resources;

100 (4) The procedures to be followed and requirements to be met for having the form removed  
101 from an adoption file; and

102 (5) Any other information the Department of Health and Human Resources considers  
103 necessary, including that failure to file a name redaction request may result in the disclosure of the  
104 birth parent's identifying information.

105 (j) The Department of Health and Human Resources may promulgate legislative rules  
106 necessary to comply with this section.

107 (k) The Department of Health and Human Resources may charge a fee for issuing a  
108 noncertified copy of the original birth record. The fee charged shall not exceed the fee for a  
109 certified copy of an original birth record.

110 (l) An officer or employee of the Department of Health and Human Resources who  
111 releases any information contained in an adoption file or provides a copy of an adoption file to an  
112 adult adoptee or his or her lineal descendants is not criminally or civilly liable in damages to any  
113 person for injury, death, or loss allegedly arising from the release of the information or copy if the

114 officer or employee releases the information in conformity with this section.

115 (m) The Department of Health and Human Resources shall track the number of requests  
116 for noncertified copies of original birth certificates received, the Department of Health and Human  
117 Resources, response time to the requests, and the number of full-time equivalents and/or part-  
118 time equivalents assigned to work fulfilling requests for these records. The department shall track  
119 this information beginning July 1, 2023, until April 30, 2026, and provide a report to the Legislative  
120 Oversight Commission on Health and Human Resources Accountability regarding this information  
121 no later than July 1, 2026.

122 (n) Nothing in this section shall be construed to permit disclosure of an adoptee's birth  
123 record to the birth parents of an adoptee.

NOTE: The purpose of this bill is to revise current law as it relates to access to adoption records by adoptees in order to make such records accessible for medical purposes. The bill authorizes adult adoptees access to certain records. The bill requires birth parents to provide certain health information at time of adoption. The bill allows birth parents to designate a contact. The bill directs the Department of Health and Human Resources to administer collection of records, require additional information and charge a reasonable fee for records copies. The bill provides a procedure for collection and dissemination of information. The bill authorizes 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.