

WEST VIRGINIA LEGISLATURE

2024 REGULAR SESSION

Introduced

Senate Bill 318

By Senators Trump, Weld, Woelfel, Deeds, Plymale,
and Takubo

[Introduced January 12, 2024; referred
to the Committee on the Judiciary]

1 A BILL to amend and reenact §48-22-502 of the Code of West Virginia, 1931, as amended,
2 relating to modifying the process of when parental rights have been terminated.

Be it enacted by the Legislature of West Virginia:

ARTICLE 22. ADOPTION.

§48-22-502. Petition and appendix.

1 (a) The petition shall be verified and set forth:

2 (1) The name, age and place of residence of the petitioner or petitioners, and of the child,
3 and the name by which the child shall be known;

4 (2) Whether such child is possessed of any property and a full description of the same, if
5 any;

6 (3) Whether the petitioner or petitioners know the identity of the persons entitled to parental
7 rights or, that the same are unknown to the petitioner or petitioners; ~~and~~

8 (4) Whether and on what basis the parental rights of any birth parents should be terminated
9 during the pendency of the adoption petition; and

10 (5) If the parental rights of child's birth parents have been terminated by a final order or
11 orders of a court of competent jurisdiction, that the final order or orders terminating the parental
12 rights of the child's birth parents have either: (1) been affirmed on appeal and the time for
13 reconsideration of the decision on appeal has expired; or (2) have not been appealed and the time
14 for filing of an appeal of the order or orders terminating the parental rights of the child's birth
15 parents has expired.

16 (b) In the case of an unknown father, an affidavit signed by the birth mother setting forth the
17 following information must be attached to the petition:

18 (1) Whether the birth mother was married at the probable time of conception of the child, or
19 at a later time, and if so, the identity and last known address of such man;

20 (2) Whether the birth mother was cohabiting with a man at the probable time of conception
21 of the child, and if so, the identity of such man, his or her last known address and why the woman

22 contends that such man is not the biological father of the child;

23 (3) Whether the birth mother has received payments or promise of support from any man
24 with respect to the child or her pregnancy, and if so, the identity of such man, his or her last known
25 address and why the birth mother contends that such man is not the biological father of the child;

26 (4) Whether the birth mother has named any man as the father on the birth certificate of the
27 child or in connection with applying for or receiving public assistance, and if so, the identity of such
28 man, his or her last known address and why the birth mother contends such man is not the
29 biological father of the child;

30 (5) Whether the birth mother identified any man as the father to any hospital personnel,
31 and if so, the identity of such man, his or her last known address, the name and address of the
32 hospital and why the birth mother now contends such man is not the biological father of the child;

33 (6) Whether the birth mother has informed any man that he or she may be the biological
34 father of the child, and if so, the identity of such man, his or her last known address and why the
35 birth mother now contends such man is not the biological father of the child;

36 (7) Whether any man has formally or informally acknowledged or claimed paternity of the
37 child in any jurisdiction at the time of the inquiry, and if so, the identity of such man, his or her last
38 known address and why the birth mother contends such man is not the biological father of the
39 child;

40 (8) That the birth mother has been advised that the failure to identify or the misidentification
41 of the birth father can result in delays and disruptions in the processing of the adoption petition;

42 (9) That the birth mother has been informed that her statement concerning the identity of
43 the father will be used only for the limited purposes of adoption and that once the adoption is
44 complete, such identity will be sealed; and

45 (10) That the birth mother has been advised of the remedies available to her for protection
46 against domestic violence pursuant to the provisions of article 27-101, *et seq.*, of this chapter.

47 (c) In the event the birth mother is deceased or her identity or whereabouts are unknown,

48 no such affidavit shall be required.

49 (d) The affidavit of the birth mother in the case of an unknown father shall be executed
50 before any person authorized to witness a consent or relinquishment pursuant to the provisions of
51 section 22-302. Any affidavit filed with the petition pursuant to the provisions of this section shall
52 be sealed in the court file and may not be opened except by court order upon a showing of good
53 cause.

54 (e) If the person petitioning for adoption is less than fifteen years older than the child
55 sought to be adopted, such fact shall be set forth specifically in the petition. In such case, the court
56 shall grant the adoption only upon a specific finding that notwithstanding the differences in age of
57 the petitioner and the child, such adoption is in the best interest of the child: *Provided*, That in the
58 case of a stepparent adoption, such specific finding shall not be required and an adoption shall not
59 be denied on the sole basis of proximity in age.

60 (f) The petition shall set forth any facts concerning the circumstances of the birth of the
61 child known to the petitioner or petitioners. An effort shall be made to obtain medical and social
62 information, which information, along with all nonidentifying information about the birth, shall
63 accompany the petition and be made a part of the nonidentifying information to be sealed in the
64 court file.

65 (g) Either the petition, the various consents or relinquishments attached thereto or filed in
66 the cause, the affidavit of the birth mother as set forth herein or in an appendix signed by counsel
67 or other credible persons shall fully disclose all that is known about the parentage of the child.

NOTE: The purpose of this bill is modify the process of when parent rights have been terminated.

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