# WEST VIRGINIA CODE: §48-22-502

**§48-22-502. Petition and appendix.**

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

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

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

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

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

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

(6) A copy of the Department of Human Services' certificate issued under §49-4-117 of this code.

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

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

(2) Whether the birth mother was cohabiting with a man at the probable time of conception of the child, and if so, the identity of such man, his last known address and why the woman contends that such man is not the biological father of the child;

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

(4) Whether the birth mother has named any man as the father on the birth certificate of the child or in connection with applying for or receiving public assistance, and if so, the identity

WV Legislature

of such man, his last known address and why the birth mother contends such man is not the biological father of the child;

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

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

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

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

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

(10) That the birth mother has been advised of the remedies available to her for protection against domestic violence pursuant to the provisions of §48-27-101 *et seq*. of this code.

(c) In the event the birth mother is deceased or her identity or whereabouts are unknown, no such affidavit shall be required.

(d) The affidavit of the birth mother in the case of an unknown father shall be executed before any person authorized to witness a consent or relinquishment pursuant to the provisions of §48-22-302 of this code. Any affidavit filed with the petition pursuant to the provisions of this section shall be sealed in the court file and may not be opened except by court order upon a showing of good cause.

(e) If the person petitioning for adoption is less than 15 years older than the child sought to be adopted, such fact shall be set forth specifically in the petition. In such case, the court shall grant the adoption only upon a specific finding that, notwithstanding the differences in age of the petitioner and the child, such adoption is in the best interest of the child: *Provided*, That in the case of a stepparent adoption, such specific finding shall not be required and an adoption shall not be denied on the sole basis of proximity in age.

(f) The petition shall set forth any facts concerning the circumstances of the birth of the child known to the petitioner or petitioners. An effort shall be made to obtain medical and social information, which information, along with all nonidentifying information about the

WV Legislature

birth, shall accompany the petition and be made a part of the nonidentifying information to be sealed in the court file.

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

WV Legislature