

WEST VIRGINIA LEGISLATURE

2024 REGULAR SESSION

Introduced

House Bill 4234

FISCAL
NOTE

By Delegate C. Pritt

[Introduced January 10, 2024; Referred

to the Committee on Senior, Children, and Family

THOUGHTS FROM BOB BELOW:

Issues then Judiciary]

SOME NOTES: THIS BILL IS TITLED "ADOPTION ATTORNEY FEES" BUT THERE HAS NOT BEEN ANY PROBLEM WITH ATTORNEYS BEING PAID FOR SEVERAL YEARS. THE LAW HAS LONG BEEN ON THE BOOKS THAT ATTORNEYS CAN BE PAID DIRECTLY, BUT FOR SOME REASON THEY ARE SLIPPING IN THE WORD "APPOINTED ATTORNEY" FOR THE FOSTER PARENTS - AS THEY TALK ABOUT A SOLUTION FOR WHICH THERE IS NO PROBLEM (if they practiced adoption law, they would know this already) ?

THEN IN (B) THEY TAKE AWAY THE RIGHT OF THE FOSTER PARENT TO BE REIMBURSED DIRECTLY FOR PAYING AN ATTORNEY OUT OF THEIR POCKET IF THEY WANT TO. MOST ATTORNEYS, LIKE US, NEVER CHARGE A FOSTER PARENT ANYTHING, BUT IF THEY WANTED AN ATTORNEY THAT ASKS FOR MONEY UPFRONT, THEN THEY SHOULD BE ABLE TO BE DIRECTLY REIMBURSED UPON PRESENTING AN INVOICE, AS THE LAW CURRENTLY EXISTS. FOSTER PARENTS ADOPTING CAN BE REIMBURSED UP TO \$2000 PER CHILD... THIS BILL WILL ELIMINATE THAT DIRECT PAYMENT TO ADOPTING PARENTS.

PART (C) IS USELESS, AS THE DHHR IS ALREADY PREVENTED FROM RECOMMENDING INDIVIDUAL ATTORNEYS. MOST FOSTER PARENTS WE KNOW RELY ON WORD OF MOUTH, A REVIEW OF THE ATTORNEY'S EXPERIENCE, AND REVIEWS FROM OTHER PARENTS TO KNOW WHO TO HIRE.

LIKEWISE, PART (D) IS A PROBLEM IN THAT THE LIST OF "QUALIFIED ATTORNEYS" MEANS LITTLE, AS THERE IS NO QUALITY CONTROL IN WV FOR WHO CALLS THEMSELF "QUALIFIED" IS THAT AN ATTORNEY WHO HAS DONE 5 ADOPTIONS IN THEIR WHOLE CAREER OR 1,500? PARENTS SHOULD BE ABLE TO SHOP AROUND AND NOT BE CONFINED TO A LIST OF ATTORNEYS THAT THE COURT MIGHT FEEL ARE "QUALIFIED" - THE PROBLEM FOR MANY FOSTER PARENTS IS NOT FINDING A QUALIFIED ATTORNEY, BUT GETTING THE STATE AND COURT TO ADHERE TO TIME DEADLINES FOR PROCESSING THE CASE AND GETTING PAPERWORK TO THE ATTORNEY TO DO THE ADOPTION. Less than 7 years ago, DHHR workers were informed that they could NOT provide a list.

- 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 providing that a guardian ad litem may not be appointed
3 in an adoption proceeding when both birth parents have signed proper relinquishments.

Be it enacted by the Legislature of West Virginia:

ARTICLE 22. ADOPTION.

**§48-22-803. No appointment of a guardian ad litem when both birth parents have signed a
relinquishment.**

- 1 In a proceeding for adoption, a guardian ad litem may not be appointed by the court if both
2 birth parents have signed a relinquishment in accordance with and meeting all of the requirements
3 of §48-22-305 of this code.

NOTE: The purpose of this bill is to provide that a guardian ad litem may not be appointed in an adoption proceeding when both birth parents have signed proper relinquishments.

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