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SENATE BILL NO. 281

Offered January 8, 2014

Prefiled January 6, 2014

A *BILL to amend and reenact § 32.1-261 of the Code of Virginia, relating to certificate of birth; naturalized citizen.*

Patron—Cosgrove

Referred to Committee on Education and Health

Be it enacted by the General Assembly of Virginia:**1. That § 32.1-261 of the Code of Virginia is amended and reenacted as follows:****§ 32.1-261. New birth certificate established on proof of adoption, legitimation or determination of paternity.**

A. The State Registrar shall establish a new certificate of birth for a person born in the Commonwealth upon receipt of the following:

1. An adoption report as provided in § 32.1-262, a report of adoption prepared and filed in accordance with the laws of another state or foreign country, or a certified copy of the decree of adoption together with the information necessary to identify the original certificate of birth and to establish a new certificate of birth; except that a new certificate of birth shall not be established if so requested by the court decreeing the adoption, the adoptive parents, or the adopted person if 18 years of age or older.

2. A request that a new certificate be established and such evidence as may be required by regulation of the Board proving that such person has been legitimated or that a court of the Commonwealth has, by final order, determined the paternity of such person. The request shall state that no appeal has been taken from the final order and that the time allowed to perfect an appeal has expired.

3. An order entered pursuant to subsection D of § 20-160. The order shall contain sufficient information to identify the original certificate of birth and to establish a new certificate of birth in the names of the intended parents.

4. A surrogate consent and report form as authorized by § 20-162. The report shall contain sufficient information to identify the original certificate of birth and to establish a new certificate of birth in the names of the intended parents.

B. When a new certificate of birth is established pursuant to subsection A, the actual place and date of birth shall be shown. It shall be substituted for the original certificate of birth. Thereafter, the original certificate and the evidence of adoption, paternity or legitimation shall be sealed and filed and not be subject to inspection except upon order of a court of the Commonwealth or in accordance with § 32.1-252. However, upon receipt of notice of a decision or order granting an adult adopted person access to identifying information regarding his birth parents from the Commissioner of Social Services or a circuit court, and proof of identification and payment, the State Registrar shall mail an adult adopted person a copy of the original certificate of birth.

C. Upon receipt of a report of an amended decree of adoption, the certificate of birth shall be amended as provided by regulation.

D. Upon receipt of notice or decree of annulment of adoption, the original certificate of birth shall be restored to its place in the files and the new certificate and evidence shall not be subject to inspection except upon order of a court of the Commonwealth or in accordance with § 32.1-252.

E. The State Registrar shall, upon request, establish and register a Virginia certificate of birth for a person born in a foreign country (i) upon receipt of a report of adoption for an adoption finalized pursuant to the laws of the foreign country as provided in subsection B of § 63.2-1200.1, or (ii) upon receipt of a report or final order of adoption entered in a court of the Commonwealth as provided in § 32.1-262; however, a Virginia certificate of birth shall not be established or registered if so requested by the court decreeing the adoption, the adoptive parents or the adopted person if 18 years of age or older. If a circuit court of the Commonwealth corrects or establishes a date of birth for a person born in a foreign country during the adoption proceedings or upon a petition to amend a certificate of foreign birth, the State Registrar shall issue a certificate showing the date of birth established by the court. After registration of the birth certificate in the new name of the adopted person, the State Registrar shall seal and file the report of adoption which shall not be subject to inspection except upon order of a court of the Commonwealth or in accordance with § 32.1-252. The birth certificate shall (i) show the true or probable foreign country of birth, and shall (ii) state that the certificate is not evidence of United States citizenship for the child for whom it is issued or for the adoptive parents. *However, the State Registrar*

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59 *shall, upon request, establish and register a new certificate of birth that does not contain the statement*
60 *required by clause (ii) for any person who has attained United States citizenship through naturalization.*
61 F. If no certificate of birth is on file for the person for whom a new certificate is to be established
62 under this section, a delayed certificate of birth shall be filed with the State Registrar as provided in §
63 32.1-259 or § 32.1-260 before a new certificate of birth is established, except that when the date and
64 place of birth and parentage have been established in the adoption proceedings, a delayed certificate
65 shall not be required.