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SENATE BILL NO. 1121

Offered January 13, 2021

Prefiled December 22, 2020

A *BILL to amend and reenact § 32.1-269 of the Code of Virginia and to amend the Code of Virginia by adding in Article 6 of Chapter 7 of Title 32.1 a section numbered 32.1-269.2, relating to birth certificates; amendments.*

Patrons—Locke, McClellan and Surovell

Referred to Committee on Education and Health

Be it enacted by the General Assembly of Virginia:

1. That § 32.1-269 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding in Article 6 of Chapter 7 of Title 32.1 a section numbered 32.1-269.2, as follows:

§ 32.1-269. Amending vital records; change of name.

A. A vital record *other than a birth certificate or death certificate* registered under this chapter; ~~with the exception of a death certificate,~~ may be amended only in accordance with this section and such regulations as may be adopted by the Board to protect the integrity and accuracy of such vital records. Such regulations shall specify the minimum evidence required for a change in any such vital record.

B. Except in the case of an amendment provided for in subsection ~~D~~ *B* of § 32.1-269.2, a vital record that is amended under this section shall be marked "amended" and the date of amendment and a summary description of the evidence submitted in support of the amendment shall be endorsed on or made a part of the vital record. The Board shall prescribe by regulation the conditions under which omissions or errors on certificates, including designation of sex, may be corrected within one year after the date of the event without the certificate being marked "amended." ~~In a case of hermaphroditism or pseudo-hermaphroditism,~~ the certificate of birth may be corrected at any time without being considered as amended upon presentation to the State Registrar of such medical evidence as the Board may require by regulation.

C. Upon receipt of a certified copy of a court order changing the name of a person as listed in a vital record and upon request of such person or his parent, guardian, or legal representative or the registrant, the State Registrar shall amend such vital records to reflect the new name.

D. Upon written request of both parents and receipt of a sworn acknowledgment of paternity executed subsequent to the birth and signed by both parents of a child born out of wedlock, the State Registrar shall amend the certificate of birth to show such paternity if paternity is not shown on the birth certificate. Upon request of the parents, the surname of the child shall be changed on the certificate to that of the father.

E. When an applicant does not submit the minimum documentation required by regulation to amend a vital record or when the State Registrar finds reason to question the validity or sufficiency of the evidence, the vital record shall not be amended and the State Registrar shall so advise the applicant. An aggrieved applicant may petition the circuit court of the county or city in which he resides or the Circuit Court of the City of Richmond, Division I, for an order compelling the State Registrar to amend the vital record; an aggrieved applicant who was born in Virginia, but is currently residing out of State, may petition any circuit court in the Commonwealth for such an order. The State Registrar or his authorized representative may appear and testify in such proceeding.

§ 32.1-269.2. Amending birth certificates.

A. A birth certificate registered pursuant to this chapter shall be amended only in accordance with this section and regulations of the Board. Such regulations shall specify the minimum evidence required for a change to such birth certificate, provided, however, that such regulations shall not require a copy of a court order or a federal census transcript as evidence for an amendment to a birth certificate.

B. Upon receipt of an application for amendment of a birth certificate, other than an amendment to show paternity if paternity is not shown on the birth certificate, together with an affidavit testifying to corrected information on a birth certificate and such evidence as may be required by regulations of the Board, the State Registrar shall amend the birth certificate to reflect the new information and evidence.

C. Upon written request of both parents and receipt of a sworn acknowledgment of paternity executed subsequent to the birth and signed by both parents of a child born out of wedlock, the State Registrar shall amend the certificate of birth to show such paternity if paternity is not shown on the birth certificate. Upon request of the parents, the surname of the child shall be changed on the certificate to that of the father.

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59 D. If an applicant fails to submit the minimum documentation required by regulation to amend a
60 birth certificate or if the State Registrar finds reason to question the validity or sufficiency of the
61 evidence, the birth certificate shall not be amended and the State Registrar shall so advise the applicant.
62 An aggrieved applicant may petition the circuit court of the county or city in which he resides or the
63 Circuit Court of the City of Richmond for an order compelling the State Registrar to amend the birth
64 certificate; an aggrieved applicant who was born in Virginia but is currently residing outside of the
65 Commonwealth may petition any circuit court in the Commonwealth for such an order. A copy of the
66 petition shall be served upon the State Registrar pursuant to Chapter 8 (§ 8.01-285 et seq.) of Title
67 8.01. The clerk shall submit such petition and any evidence received with the petition to the judge for
68 entry of an order without the necessity of a hearing, unless the judge decides a hearing is necessary.
69 The State Registrar or his authorized representative may appear and testify in such proceeding. Upon
70 entry of an order for the amendment of a birth certificate, the clerk shall transmit a certified copy of
71 such order to the State Registrar, who shall amend the birth certificate in accordance with the order.

72 E. Except in the case of an amendment provided for in subsection C, a birth certificate that is
73 amended under this section shall be marked "amended" and the date of amendment and a summary
74 description of the evidence submitted in support of the amendment shall be endorsed on or made a part
75 of the birth certificate. The Board shall prescribe by regulation the conditions under which omissions or
76 errors on a birth certificate, including designation of sex, may be corrected within one year after the
77 date of birth of the subject of the record without the birth certificate being marked "amended." In a
78 case of hermaphroditism or pseudo-hermaphroditism, a birth certificate may be corrected at any time
79 upon presentation to the State Registrar of such medical evidence as the Board may require by
80 regulation, and such certificate shall not be required to be marked "amended."