

LD1637813

HOUSE BILL NO. 1044

Offered January 25, 1994

A BILL to amend and reenact §§ 32.1-257, 32.1-263, 32.1-264, 32.1-265, 32.1-272, and 32.1-273 of the Code of Virginia, and to amend and reenact § 32.1-258 of the Code of Virginia as is currently effective and as may become effective January 1, 1995, and to repeal §§ 32.1-254, 32.1-255, 32.1-256 of the Code of Virginia, relating to electronic reporting of vital events of birth, death, and fetal death.

Patrons—Hamilton; Senator: Woods

Referred to Committee on Health, Welfare and Institutions

Be it enacted by the General Assembly of Virginia:

1. That §§ 32.1-257, 32.1-263, 32.1-264, 32.1-265, 32.1-272, and 32.1-273 of the Code of Virginia are amended and reenacted, and that § 32.1-258 of the Code of Virginia is amended and reenacted as currently effective and as may become effective January 1, 1995, as follows:

§ 32.1-257. Filing birth certificates; from whom required; signatures of parents.

A. A certificate of birth for each live birth which occurs in this Commonwealth shall be filed with the registrar of the district in which the birth occurs State Registrar within seven days after such birth and. The certificate of birth shall be registered by such registrar the State Registrar if it has been completed and filed in accordance with this section.

B. When a birth occurs in an institution or en route thereto, the person in charge of such institution or his designated representative an authorized designee shall obtain the personal data, prepare the certificate on forms furnished by the State Registrar, and secure the signatures required by the certificate and file it with the registrar. The physician or other person in attendance shall certify to the facts of birth and provide the medical information required by the certificate within five days after the birth. The person in charge of the institution or an authorized designee shall certify to the authenticity of the birth registration by affixing his signature to the certificate and shall file the certificate of birth as provided in subsection A of this section by an electronic process approved by the Board or as otherwise directed by the State Registrar within seven days after such birth.

C. When a birth occurs outside an institution, the certificate shall be prepared on forms furnished by the State Registrar and filed by one of the following in the indicated order of priority, in accordance with the regulations of the Board:

1. The physician in attendance at or immediately after the birth, or in the absence of such physician,

2. Any other person in attendance at or immediately after the birth, or in the absence of such a person,

3. The father, the mother, or, in the absence of the father and the inability of the mother, the person in charge of the premises where the birth occurred.

C1. When a birth occurs on a moving conveyance within the United States of America and the child is first removed from the conveyance in this Commonwealth, the birth shall be registered in this Commonwealth and the place where the child is first removed from the conveyance shall be considered the place of birth. When a birth occurs on a moving conveyance while in international waters or air space or in a foreign country or its air space and the child is first removed from the conveyance in this Commonwealth, the birth shall be registered in this Commonwealth although the certificate shall indicate the actual place of birth insofar as can be determined.

D. If the mother of a child is not married to the natural father of the child at the time of birth or was not married to the natural father at any time during the ten months next preceding such birth, the name of the father shall not be entered on the certificate of birth without a sworn acknowledgment of paternity, executed subsequent to the birth of the child, of both the mother and of the person to be named as the father unless. In any case in which a final determination of the paternity of a child has been made by a court of the Commonwealth competent jurisdiction pursuant to § 20-49.8, from which no appeal has been taken and for which the time allowed to perfect an appeal has expired, in which ease the name of the father as determined by the court and the surname of the child shall be entered on the certificate of birth in accordance with the finding and order of the court.

Children born of marriages prohibited by law, deemed null or void or dissolved by a court shall nevertheless be legitimate and the birth certificate for such children shall contain full information concerning the father.

A child born of a married woman who conceived the child with the written consent of the woman and her husband to (i) performance of reproductive technology and (ii) acceptance of parentage of any

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60 resulting child, where the child was conceived by means of artificial insemination, in vitro fertilization
61 or other reproductive technology performed under the supervision of a licensed health care professional,
62 which uses the sperm of a donor who is not her husband or an ovum from a donor other than herself, or
63 both, shall be the legitimate natural child of the woman and her husband. *The For the purpose of birth*
64 *registration in the case of a child resulting from assisted conception, pursuant to Chapter 9 of Title 20*
65 *(§§ 20-156 et seq.), the birth certificate of such child shall contain full information concerning the*
66 *mother's husband as the father of the child and the gestational mother as the mother of the child. Donors*
67 *of sperm or ova shall not have any parental rights or duties for any such child.*

68 In the event any person desires to have the name of the father entered on the certificate of birth
69 based upon the judgment of paternity of a court of another state, such person shall apply to an
70 appropriate court of the Commonwealth for an order reflecting that such court has reviewed such
71 judgment of paternity and has determined that such judgment of paternity was amply supported in
72 evidence and legitimate for the purposes of Article IV, Section 1 of the United States Constitution.

73 If the order of paternity should be appealed, the registrar shall not enter the name of the alleged
74 father on the certificate of birth during the pendency of such appeal. *If the father is not named on the*
75 *certificate of birth, no other information concerning the father shall be entered on the certificate.*

76 E. Either of the parents of the child shall ~~sign the certificate of live birth to attest to verify the~~
77 ~~accuracy of the personal data to be entered thereon, on the certificate of birth and shall sign the~~
78 ~~certificate~~ in time to permit the filing within the seven days prescribed above.

79 § 32.1-258. (For effective date - See note) Report of foundling; constitutes birth certificate.

80 A. Whoever assumes the custody of a living infant of unknown parentage shall report on a form and
81 in the manner prescribed by the Board within seven days to the registrar of the county or city in which
82 such child was found State Registrar, the following information:

- 83 1. The date and ~~place~~ city or county of finding;
- 84 2. Sex, race and approximate birth date of such child;
- 85 3. Name and address of the persons or institution with whom such child has been placed for care;
- 86 4. Name given to such child by the custodian of the child; and
- 87 5. Such other data as may be required by the Board.

88 B. The place where such child was found shall be entered as the place of birth.

89 C. A report registered under this section shall constitute the certificate of birth for such ~~infant~~ child.

90 D. If such child is identified and a certificate of birth is found or obtained, any report registered
91 under this section shall be sealed and filed and may be opened only by order of a circuit court of the
92 Commonwealth or in accordance with subdivision A 7 of § 32.1-252.

93 § 32.1-258. (Delayed effective date - See notes) Report of foundling; constitutes birth certificate.

94 A. Whoever assumes the custody of a living infant of unknown parentage shall report on a form and
95 in the manner prescribed by the Board within seven days to the registrar of the county or city in which
96 such child was found State Registrar, the following information:

- 97 1. The date and ~~place~~ city or county of finding;
- 98 2. Sex, race and approximate birth date of such child;
- 99 3. Name and address of the persons or institution with whom such child has been placed for care;
- 100 4. Name given to such child by the custodian of the child; and
- 101 5. Such other data as may be required by the Board.

102 B. The place where such child was found shall be entered as the place of birth.

103 C. A report registered under this section shall constitute the certificate of birth for such ~~infant~~ child.

104 D. If such child is identified and a certificate of birth is found or obtained, any report registered
105 under this section shall be sealed and filed and may be opened only by order of a family court of the
106 Commonwealth or in accordance with subdivision A 7 of § 32.1-252.

107 § 32.1-263. Filing death certificates; medical certification; investigation by medical examiner.

108 A. A death certificate for each death which occurs in this Commonwealth shall be filed with the
109 registrar of the district in which the death occurred State Registrar within three days after such death
110 and prior to final disposition or removal of the body from the Commonwealth; ~~and by an electronic~~
111 ~~process approved by the Board or as otherwise directed by the State Registrar. The State Registrar shall~~
112 ~~be registered by such registrar register the death certificate~~ if it has been completed and filed in
113 accordance with the following requirements:

114 1. If the place of death is unknown, but the dead body is found in this Commonwealth, a death
115 certificate shall be filed in the registration district in which the dead body is found in accordance with
116 this section. The place where the dead body is found shall be shown as the place of death. If the date of
117 death is unknown, it shall be determined by approximation; and

118 2. When death occurs in a moving conveyance, in the United States of America and the body is first
119 removed from the conveyance in this Commonwealth, the death shall be registered in this
120 Commonwealth and the place where it is first removed shall be considered the place of death. When a
121 death occurs on a moving conveyance while in international waters or air space or in a foreign country

or its air space and the body is first removed from the conveyance in this Commonwealth, the death shall be registered in this Commonwealth but the certificate shall show the actual place of death insofar as can be determined.

B. The funeral director or person who first assumes custody of a dead body shall file the certificate of death with the ~~registrar~~ *State Registrar*. He shall obtain the personal data from the next of kin or the best qualified person or source available and obtain the medical certification from the person responsible therefor.

C. The medical certification shall be completed, signed and returned to the funeral director within twenty-four hours after death by the physician in charge of the patient's care for the illness or condition which resulted in death except when inquiry or investigation by a medical examiner is required by § 32.1-283 or § 32.1-285.1.

In the absence of the physician or with his approval, the certificate may be completed and signed by an associate physician, the chief medical officer of the institution in which death occurred, or the physician who performed an autopsy upon the decedent, if such individual has access to the medical history of the case and death is due to natural causes.

D. When inquiry or investigation by a medical examiner is required by § 32.1-283 or § 32.1-285.1, the medical examiner shall investigate the cause of death and shall complete and sign the medical certification portion of the death certificate within twenty-four hours after being notified of the death. If the medical examiner refuses jurisdiction, the physician last furnishing medical care to the deceased shall prepare and sign the medical certification portion of the death certificate.

E. If the cause of death cannot be determined within twenty-four hours after death, the medical certification shall be completed as provided by regulations of the Board. The attending physician or medical examiner shall give the funeral director or person acting as such notice of the reason for the delay, and final disposition of the body shall not be made until authorized by the attending physician or medical examiner.

§ 32.1-264. Reports of fetal deaths; medical certification; investigation by medical examiner; confidentiality of information concerning abortions.

A. A fetal death report for each fetal death which occurs in this Commonwealth shall be filed; ~~on a form furnished by~~ *with the State Registrar, with the registrar of the district in which the delivery occurred or the abortion was performed within three days after such delivery or abortion and, on forms furnished by the State Registrar, by an electronic process approved by the Board or as otherwise directed by the State Registrar. The State Registrar shall be registered with such registrar register the report if it has been completed and filed in accordance with this section; provided that:*

1. ~~If the place~~ *When a fetal death of occurs in a moving conveyance, in the United States of America and the fetus is first removed from the conveyance in this Commonwealth, or when a fetus is found in this Commonwealth and the place of fetal death is unknown, a the fetal death report shall be filed in the registration district in which a dead fetus was found reported in this Commonwealth within three days after discovery of such fetus; and. The place where the fetus was first removed from the conveyance, or the place where the fetus was found shall be considered the place of fetal death. When a fetal death occurs on a moving conveyance while in international waters or air space or in a foreign country or its air space and the fetus is first removed from the conveyance in this Commonwealth, the fetal death shall be reported in this Commonwealth but the certificate shall show the actual place of death insofar as can be determined.*

2. ~~If~~ *When a fetal death occurs in a moving conveyance an institution, the person in charge of the institution shall prepare and file a the fetal death report shall be filed in the registration district in which the fetus was first removed from such conveyance. When a fetus is delivered outside an institution, the physician or other person in attendance at or immediately after delivery shall prepare and file the fetal death report.*

3. *When a fetal death required to be reported by this section occurs without medical attendance at or immediately after the delivery, or when inquiry is required pursuant to § 32.1-283, the medical examiner shall make an investigation into the cause and manner of death, reduce his findings to writing, and promptly make a full report to the Chief Medical Examiner. The medical examiner shall prepare and file the fetal death report within three days after completion of the postmortem examination.*

B. The funeral director or person who first assumes custody of a dead fetus or, in the absence of a funeral director or such person, the hospital representative who first assumes custody of a fetus shall file the fetal death report; ~~in~~ *In the absence of such a person the hospital representative, the physician or other person in attendance at or after the delivery or abortion shall file the report of fetal death. The person completing the forms shall obtain the personal data from the next of kin or the best qualified person or source available, and he shall obtain the medical certification of cause of death from the person responsible for preparing the same as provided in this section. In the case of induced abortion, such forms shall not identify the patient by name.*

183 C. The medical certification portion of the fetal death report shall be completed and signed within
184 twenty-four hours after delivery or abortion by the physician in attendance at or after delivery or
185 abortion except when inquiry or investigation by a medical examiner is required.

186 D. When a fetal death occurs without medical attendance upon the mother at or after the delivery or
187 abortion or when inquiry or investigation by a medical examiner is required, the medical examiner shall
188 investigate the cause of fetal death and shall complete and sign the medical certification portion of the
189 fetal death report within twenty-four hours after being notified of a fetal death.

190 E. The reports required pursuant to this section are statistical reports to be used only for medical and
191 health purposes and shall not be incorporated into the permanent official records of the system of vital
192 records. A schedule for the disposition of these reports may be provided by regulation.

193 F. The physician or facility attending an individual who has delivered a dead fetus shall maintain a
194 copy of the fetal death report for one year and, upon written request by the individual and payment of
195 an appropriate fee, shall furnish the individual a copy of such report.

196 § 32.1-265. Transit permits; permits for disinterment and reinterment.

197 A. The funeral director or other person who first assumes custody of a dead body or fetus shall
198 obtain an out-of-state transit permit prior to removal from the Commonwealth of the body or fetus. *If*
199 *the dead body or fetus is to be cremated or buried at sea, authorization for cremation or burial at sea*
200 *shall be obtained from the medical examiner on a form prescribed by the Board and furnished by the*
201 *State Chief Medical Examiner, pursuant to § 32.1-284.*

202 B. Such out-of-state transit permit shall be ~~issued by the registrar of the district where a satisfactorily~~
203 ~~completed certificate of death or fetal death was filed~~ *filed with the death certificate as required under*
204 *§§ 32.1-263 and 32.1-264, and shall be valid when the signature of a physician or medical examiner is*
205 *affixed thereto.*

206 C. A transit permit issued under the law of another state which accompanies a dead body or fetus
207 brought into this Commonwealth shall be authority for final disposition of the body or fetus in this
208 Commonwealth.

209 D. No *transit* permit shall be required ~~where for the disposal of a dead bodies or fetuses body or~~
210 ~~fetus for deaths or fetal deaths in which have such death or fetal death occurred in this Commonwealth~~
211 *and the disposal of the dead body or fetus is to be made in within this Commonwealth.*

212 E. A permit for disinterment and reinterment shall be required prior to disinterment of a dead body
213 or fetus except as authorized by regulation of the Board or otherwise provided by law. Such permit shall
214 be issued *,or as otherwise directed,* by the State Registrar ~~or the registrar of the county or city where~~
215 ~~the body or fetus is interred to a licensed funeral director.~~

216 § 32.1-272. Certified copies of vital records; other copies.

217 A. In accordance with § 32.1-271 and the regulations adopted pursuant thereto, the State Registrar
218 shall, upon receipt of a written request, issue a certified copy of any vital record in his custody or of a
219 part thereof. Such vital records in his custody may be in the form of originals, photoprocessed
220 reproductions or data filed by electronic means. Each copy issued shall show the date of registration.
221 Any copy issued from a record marked "delayed" or "amended," except a record amended pursuant to
222 subsection F of this section or subsection D of § 32.1-269, shall be similarly marked and show the
223 effective date. Certified copies may be issued by ~~county and city registrars only while the original~~
224 ~~record is in their possession, except that at the option of the county or city registrar true and complete~~
225 ~~copies of death certificates may be retained and certified copies of such records may be issued by the~~
226 ~~county or city registrar~~ *local custodians of vital records as defined in and prescribed by regulations of*
227 *the Board.*

228 B. A certified copy of a vital record or any part thereof issued in accordance with subsection A shall
229 be considered for all purposes the same as the original and shall be prima facie evidence of the facts
230 therein stated, provided that the evidentiary value of a vital record filed more than one year after the
231 event or a vital record which has been amended *or a certificate of foreign birth* shall be determined by
232 the judicial or administrative body or official before whom the certificate is offered as evidence.

233 C. The federal agency responsible for national vital statistics may be furnished such copies or other
234 data from the system of vital records as it may require for national statistics if such federal agency
235 shares in the cost of collecting, processing and transmitting such data. Such data may be used for
236 research and medical investigations of public health importance. No other use of such data shall be
237 made by the federal agency unless authorized by the State Registrar.

238 D. Other federal, state and local, public or private agencies in the conduct of their official duties
239 may, upon request and payment of a reasonable fee, be furnished copies or other data from the system
240 of vital records for statistical or administrative purposes upon such terms or conditions as may be
241 prescribed by the Board. Such copies or other data shall not be used for purposes other than those for
242 which they were requested unless so authorized by the State Registrar.

243 E. No person shall prepare or issue any certificate which purports to be an original, certified copy, or
244 copy of a vital record except as authorized in this chapter or regulations adopted hereunder.

F. Certified copies of birth records filed before July 1, 1960, containing statements of racial designation on the reverse thereof shall be issued without such statement as a part of the certification; nor for this purpose solely shall such certification be marked "amended."

§ 32.1-273. Fees for certified copies, searches of files, etc.; disposition.

A. The Board shall prescribe the fee, not to exceed five dollars, for a certified copy of a vital record or for a search of the files or records when no copy is made and may establish a reasonable fee schedule related to its cost for information or other data provided for research, statistical or administrative purposes. Whenever any veteran or his survivor requires a certified copy of a vital record to obtain service-connected benefits, one copy of such record shall be provided directly to the Veterans Administration upon their request. No charge shall be imposed upon a veteran or his survivor for the submission of vital records directly to the Veterans Administration.

B. Fees collected under this section by the State Registrar shall be transmitted to the Comptroller for deposit. Two dollars of each fee collected by the State Registrar shall be deposited by the Comptroller into the Vital Statistics Automation Fund established pursuant to § 32.1-273.1 for so long as shall be authorized. The remainder shall be deposited into the general fund of the state treasury. When the Vital Statistics Automation System is completed, no further deposits into the fund shall be made and all fees collected under this section shall be deposited into the general fund of the state treasury.

C. Fees collected under this section by ~~county and city registrars~~ *local custodians of vital records* shall be deposited in the general fund of the county or city except that counties or cities operating health departments pursuant to the provisions of § 32.1-31 *and serving as local custodians of vital records* shall forward all such fees *as they may be authorized by the Board to collect for reporting and filing vital records* to the Department for deposit in the cooperative local health services fund.

D. Fees assessed against local departments of social services or public welfare for furnished copies of vital records as needed to administer public assistance programs, as defined in § 63.1-87, shall be payable on a quarterly basis.

2. That §§ 32.1-254, 32.1-255, and 32.1-256 of the Code of Virginia are repealed.