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SENATE BILL NO. 414

Offered January 11, 2006

Prefiled January 11, 2006

A BILL to amend and reenact § 32.1-261 of the Code of Virginia, relating to the prohibition of same-sex couples from being listed on a birth certificate following adoption.

Patron—Hanger

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, legitimization or determination of paternity.

A. The State Registrar shall establish a new certificate of birth for a person born in this 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. *Under this subdivision, only a married couple or an unmarried individual shall be listed as parents or a parent of an adopted child on the new certificate of birth.*

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 of this section, 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 legitimization shall be sealed and filed and not be subject to inspection except upon order of a court of this Commonwealth or in accordance with § 32.1-252.

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 this Commonwealth or in accordance with § 32.1-252.

E. The State Registrar shall establish and register a Virginia certificate of birth for a person born in a foreign country and for whom a report or final order of adoption has been entered in a court of this Commonwealth when the State Registrar receives an adoption report as provided in § 32.1-262 and a request that such a certificate be established and registered; 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. 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 this Commonwealth or in accordance with § 32.1-252. The birth certificate shall show the true or probable foreign country of birth and shall state that the certificate is not evidence of United States citizenship for the child for whom it is issued or for the adoptive parents.

F. If no certificate of birth is on file for the person for whom a new certificate is to be established under this section, a delayed certificate of birth shall be filed with the State Registrar as provided in § 32.1-259 or § 32.1-260 before a new certificate of birth is established, except that when the date and place of birth and parentage have been established in the adoption proceedings, a delayed certificate shall not be required.

INTRODUCED

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