

1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend and reenact §§ 32.1-261 and 32.1-269 of the Code of Virginia, relating to Board of*
 3 *Health; certificate of birth; change of sex.*

4 [S 657]

5 Approved

6 **Be it enacted by the General Assembly of Virginia:**7 **1. That §§ 32.1-261 and 32.1-269 of the Code of Virginia are amended and reenacted as follows:**8 **§ 32.1-261. New certificate of birth established on proof of adoption, legitimation or**
 9 **determination of paternity, or change of sex.**10 A. The State Registrar shall establish a new certificate of birth for a person born in the
 11 Commonwealth upon receipt of the following:12 1. An adoption report as provided in § 32.1-262, a report of adoption prepared and filed in
 13 accordance with the laws of another state or foreign country, or a certified copy of the decree of
 14 adoption together with the information necessary to identify the original certificate of birth and to
 15 establish a new certificate of birth; except that a new certificate of birth shall not be established if so
 16 requested by the court decreeing the adoption, the adoptive parents, or the adopted person if 18 years of
 17 age or older.18 2. A request that a new certificate be established and such evidence as may be required by regulation
 19 of the Board proving that such person has been legitimated or that a court of the Commonwealth has,
 20 by final order, determined the paternity of such person. The request shall state that no appeal has been
 21 taken from the final order and that the time allowed to perfect an appeal has expired.22 3. An order entered pursuant to subsection D of § 20-160. The order shall contain sufficient
 23 information to identify the original certificate of birth and to establish a new certificate of birth in the
 24 names of the intended parents.25 4. A surrogate consent and report form as authorized by § 20-162. The report shall contain sufficient
 26 information to identify the original certificate of birth and to establish a new certificate of birth in the
 27 names of the intended parents.28 5. *Upon request of a person and in accordance with requirements of the Board, the State Registrar*
 29 *shall issue a new certificate of birth to show a change of sex of the person and, if a certified copy of a*
 30 *court order changing the person's name is submitted, to show a new name. Requirements related to*
 31 *obtaining a new certificate of birth to show a change of sex shall include a requirement that the person*
 32 *requesting the new certificate of birth submit a form furnished by the state registrar and completed by a*
 33 *health care provider from whom the person has received treatment stating that the person has*
 34 *undergone clinically appropriate treatment for gender transition. Requirements related to obtaining a*
 35 *new certificate of birth to show a change of sex shall not include any requirement for evidence or*
 36 *documentation of any medical procedure.*37 6. *Nothing in this section shall deprive the circuit court of equitable jurisdiction to adjudicate, upon*
 38 *application of a person, that the sex of such person residing within the territorial jurisdiction of the*
 39 *circuit court has been changed. In such an action, the person may petition for the application of the*
 40 *standard of the person's jurisdiction of birth; otherwise, the requirements of this section shall apply.*41 B. When a new certificate of birth is established pursuant to subsection A, the actual place and date
 42 of birth shall be shown. It shall be substituted for the original certificate of birth. Thereafter, the original
 43 certificate and the evidence of adoption, paternity or legitimation shall be sealed and filed and not be
 44 subject to inspection except upon order of a court of the Commonwealth or in accordance with
 45 § 32.1-252. However, upon receipt of notice of a decision or order granting an adult adopted person
 46 access to identifying information regarding his birth parents from the Commissioner of Social Services
 47 or a circuit court, and proof of identification and payment, the State Registrar shall mail an adult
 48 adopted person a copy of the original certificate of birth.49 C. Upon receipt of a report of an amended decree of adoption, the certificate of birth shall be
 50 amended as provided by regulation.51 D. Upon receipt of notice or decree of annulment of adoption, the original certificate of birth shall be
 52 restored to its place in the files and the new certificate and evidence shall not be subject to inspection
 53 except upon order of a court of the Commonwealth or in accordance with § 32.1-252.54 E. The State Registrar shall, upon request, establish and register a Virginia certificate of birth for a
 55 person born in a foreign country (i) upon receipt of a report of adoption for an adoption finalized
 56 pursuant to the laws of the foreign country as provided in subsection B of § 63.2-1200.1, or (ii) upon

57 receipt of a report or final order of adoption entered in a court of the Commonwealth as provided in
58 § 32.1-262; however, a Virginia certificate of birth shall not be established or registered if so requested
59 by the court decreeing the adoption, the adoptive parents or the adopted person if 18 years of age or
60 older. If a circuit court of the Commonwealth corrects or establishes a date of birth for a person born in
61 a foreign country during the adoption proceedings or upon a petition to amend a certificate of foreign
62 birth, the State Registrar shall issue a certificate showing the date of birth established by the court. After
63 registration of the birth certificate in the new name of the adopted person, the State Registrar shall seal
64 and file the report of adoption which shall not be subject to inspection except upon order of a court of
65 the Commonwealth or in accordance with § 32.1-252. The birth certificate shall (i) show the true or
66 probable foreign country of birth and (ii) state that the certificate is not evidence of United States
67 citizenship for the child for whom it is issued or for the adoptive parents. However, for any adopted
68 person who has attained United States citizenship, the State Registrar shall, upon request and receipt of
69 evidence demonstrating such citizenship, establish and register a new certificate of birth that does not
70 contain the statement required by clause (ii).

71 F. If no certificate of birth is on file for the person for whom a new certificate is to be established
72 under this section, a delayed certificate of birth shall be filed with the State Registrar as provided in
73 § 32.1-259 or 32.1-260 before a new certificate of birth is established, except that when the date and
74 place of birth and parentage have been established in the adoption proceedings, a delayed certificate
75 shall not be required.

76 G. When a new certificate of birth is established pursuant to subdivision A 1, the State Registrar
77 shall issue along with the new certificate of birth a document, furnished by the Department of Social
78 Services pursuant to § 63.2-1220, listing all post-adoption services available to adoptive families.

79 **§ 32.1-269. Amending vital records; change of name; acknowledgment of paternity.**

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

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

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

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

100 E. Upon receipt of a certified copy of an order of a court of competent jurisdiction indicating that
101 the sex of an individual has been changed by medical procedure and upon request of such person, the
102 State Registrar shall amend such person's certificate of birth to show the change of sex and, if a certified
103 copy of a court order changing the person's name is submitted, to show a new name.

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

112 **2. That the State Registrar shall develop the form required by § 32.1-261, as amended and**
113 **reenacted in this act, by September 1, 2020.**