

VIRGINIA ACTS OF ASSEMBLY -- 2021 SPECIAL SESSION I

CHAPTER 237

An Act to amend and reenact §§ 32.1-269 and 32.1-272 of the Code of Virginia, relating to birth certificates; amendments.

[S 1121]

Approved March 18, 2021

Be it enacted by the General Assembly of Virginia:

1. That §§ 32.1-269 and 32.1-272 of the Code of Virginia are amended and reenacted as follows:

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

A. A vital record 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, 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. *Every request for an amendment to a birth certificate shall be reviewed to determine whether the requested amendment can be made administratively in accordance with regulations of the Board or if a judicial order is required for such amendment. The Department shall make information about the process by which amendments to a birth certificate may be requested and reviewed pursuant to this subsection available to the public on its website. Such information shall include a standard form for requests for amendments to a birth certificate.*

D. 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.~~ E. 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.~~ F. 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, ~~or the requested amendment requires a judicial order~~, the vital record shall not be amended and the State Registrar shall so ~~advise~~ notify the applicant in writing. Such notification shall also include notice to the applicant regarding his right to petition the court for an order in accordance with subsection G. ~~An~~

G. Any person aggrieved ~~applicant~~ by the decision of the State Registrar to deny a request to amend a vital record 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.

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

A. In accordance with § 32.1-271 and the regulations adopted pursuant thereto, the State Registrar or a district health department shall, upon receipt of a written request, issue a certified copy of any vital record in the custody of the State Registrar or of a part thereof.

The Commissioner of the Department of Motor Vehicles shall be authorized to issue a certified copy of a birth, death, marriage, or divorce vital record, or a part thereof, in the custody of the State Registrar.

Such vital records in the State Registrar's custody may be in the form of originals, photoprocessed reproductions or data filed by electronic means.

Each copy issued shall show the date of registration. Any copy issued from a record marked "delayed" or "amended," except a record amended pursuant to subsection F of this section or subsection ~~D~~ E of § 32.1-269, shall be similarly marked and show the effective date.

Certified copies may be issued by county and city registrars only while the original record is in their possession, except that at the option of the county or city registrar true and complete copies of death certificates may be retained and certified copies of such records may be issued by the county or city registrar.

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

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

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

In promulgating regulations relating to the terms or conditions for public or private agencies or persons obtaining copies of death certificates in the conduct of their official duties, the Board shall include within its definition of "legal representative" (i) any attorney licensed to practice law in Virginia, upon presentation of his bar number and evidence of need to obtain such copy; and (ii) any funeral director or funeral service licensee licensed to practice by the Board of Funeral Directors and Embalmers, upon presentation of evidence to so practice and evidence of being in charge of final disposition of the registrant's dead human remains or cremains or evidence of need to obtain such copy.

E. No person shall prepare or issue any certificate which purports to be an original or certified 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."

Any American Indian or Native American whose certified copy of a birth record filed before July 1, 1960, contains a racial designation that is incorrect may obtain, without paying a fee, one certified copy of his birth record from which such incorrect racial designation has been removed. Such certification shall not be marked "amended" solely for this reason.

G. With the increased fees to be charged for vital records and the additional deposits to the Vital Statistics Automation Fund, the Board of Health shall establish, within the district health departments, a statewide system for decentralizing certification of vital records, when such records are prepared or issued from data in the custody of the State Registrar and the Board of Health. Such system shall include the Department of Motor Vehicles pursuant to the authorization in subsection A.