

VIRGINIA ACTS OF ASSEMBLY — CHAPTER

An Act to amend and reenact § 32.1-261 of the Code of Virginia, relating to vital records; birth certificates; adoption; members of the military.

[S 325]

Approved

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 certificate of birth established on proof of adoption, legitimation, or determination of paternity, or change of sex.

A. The State Registrar shall establish a new certificate of birth for a person born in the 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.

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.

5. Upon request of a person and in accordance with requirements of the Board, the State Registrar shall issue a new certificate of birth to show a change of sex of the person and, if a certified copy of a court order changing the person's name is submitted, to show a new name. Requirements related to obtaining a new certificate of birth to show a change of sex shall include a requirement that the person requesting the new certificate of birth submit a form furnished by the State Registrar and completed by a health care provider from whom the person has received treatment stating that the person has undergone clinically appropriate treatment for gender transition. Requirements related to obtaining a new certificate of birth to show a change of sex shall not include any requirement for evidence or documentation of any medical procedure.

6. Nothing in this section shall deprive the circuit court of equitable jurisdiction to adjudicate, upon application of a person, that the sex of such person residing within the territorial jurisdiction of the circuit court has been changed. In such an action, the person may petition for the application of the standard of the person's jurisdiction of birth; otherwise, the requirements of this section shall apply.

B. When a new certificate of birth is established pursuant to subsection A, 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 legitimation shall be sealed and filed and not be subject to inspection except upon order of a court of the Commonwealth or in accordance with § 32.1-252. However, upon receipt of notice of a decision or order granting an adult adopted person access to identifying information regarding his birth parents from the Commissioner of Social Services or a circuit court, and proof of identification and payment, the State Registrar shall mail an adult adopted person a copy of the original certificate of birth.

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 the Commonwealth or in accordance with § 32.1-252.

E. The State Registrar shall, upon request, establish and register a Virginia certificate of birth for a person born in a foreign country (i) upon receipt of a report of adoption for an adoption finalized pursuant to the laws of the foreign country as provided in subsection B of § 63.2-1200.1; or (ii) upon

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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 *H. When a new certificate of birth is established pursuant to subdivision A 1, and (i) at least one*
80 *adoptive parent is an active duty or retired member of the military or military reserves and (ii) the filer*
81 *notifies the clerk of court in writing that an adoptive parent has military status as required herein, the*
82 *clerk of the court decreeing the adoption shall deliver the adoption records and a standardized*
83 *confirmation of active duty or retired military or military reserves membership of either adoptive parent*
84 *to the State Registrar no later than five business days after receipt by such clerk of the final decree*
85 *from the judge who entered such decree. The State Registrar shall expedite the issuance of the new*
86 *certificate of birth to the adoptive parents upon receipt of (a) adoption records as provided for in*
87 *§ 32.1-261, (b) standardized notice from the court that finalized the adoption that at least one adoptive*
88 *parent is an active duty or retired member of the military or military reserves, and (c) a completed*
89 *request to the Virginia Department of Health that a new certificate of birth for the registrant be*
90 *prepared. Requirements set forth in §§ 32.1-271, 32.1-272, and 32.1-273 shall apply to the disclosure of*
91 *information or issuance of the adopted registrant's new certificate of birth.*