

SENATE BILL NO. 325

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Health and Education

on January 16, 2024)

(Patron Prior to Substitute--Senator Roem)

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

**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.

26 4. A surrogate consent and report form as authorized by § 20-162. The report shall contain  
27 sufficient information to identify the original certificate of birth and to establish a new certificate of birth  
28 in the names of the intended parents.

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

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

42 B. When a new certificate of birth is established pursuant to subsection A, the actual place and  
43 date of birth shall be shown. It shall be substituted for the original certificate of birth. Thereafter, the  
44 original certificate and the evidence of adoption, paternity or legitimation shall be sealed and filed and not  
45 be subject to inspection except upon order of a court of the Commonwealth or in accordance with § 32.1-  
46 252. However, upon receipt of notice of a decision or order granting an adult adopted person access to  
47 identifying information regarding his birth parents from the Commissioner of Social Services or a circuit  
48 court, and proof of identification and payment, the State Registrar shall mail an adult adopted person a  
49 copy of the original certificate of birth.

50 C. Upon receipt of a report of an amended decree of adoption, the certificate of birth shall be  
51 amended as provided by regulation.

52 D. Upon receipt of notice or decree of annulment of adoption, the original certificate of birth shall  
53 be restored to its place in the files and the new certificate and evidence shall not be subject to inspection  
54 except upon order of a court of the Commonwealth or in accordance with § 32.1-252.

55 E. The State Registrar shall, upon request, establish and register a Virginia certificate of birth for  
56 a person born in a foreign country (i) upon receipt of a report of adoption for an adoption finalized pursuant  
57 to the laws of the foreign country as provided in subsection B of § 63.2-1200.1; or (ii) upon receipt of a  
58 report or final order of adoption entered in a court of the Commonwealth as provided in § 32.1-262;  
59 however, a Virginia certificate of birth shall not be established or registered if so requested by the court  
60 decreeing the adoption, the adoptive parents or the adopted person if 18 years of age or older. If a circuit  
61 court of the Commonwealth corrects or establishes a date of birth for a person born in a foreign country  
62 during the adoption proceedings or upon a petition to amend a certificate of foreign birth, the State  
63 Registrar shall issue a certificate showing the date of birth established by the court. After registration of  
64 the birth certificate in the new name of the adopted person, the State Registrar shall seal and file the report  
65 of adoption which shall not be subject to inspection except upon order of a court of the Commonwealth  
66 or in accordance with § 32.1-252. The birth certificate shall (i) show the true or probable foreign country  
67 of birth and (ii) state that the certificate is not evidence of United States citizenship for the child for whom  
68 it is issued or for the adoptive parents. However, for any adopted person who has attained United States  
69 citizenship, the State Registrar shall, upon request and receipt of evidence demonstrating such citizenship,  
70 establish and register a new certificate of birth that does not 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 place  
74 of birth and parentage have been established in the adoption proceedings, a delayed certificate shall not  
75 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 clerk  
82 of the court decreeing the adoption shall deliver the adoption records and a standardized confirmation of  
83 active duty or retired military or military reserves membership of either adoptive parent to the State  
84 Registrar no later than five business days after receipt by such clerk of the final decree from the judge who  
85 entered such decree. The State Registrar shall expedite the issuance of the new certificate of birth to the  
86 adoptive parents upon receipt of (a) adoption records as provided for in § 32.1-261, (b) standardized notice  
87 from the court that finalized the adoption that at least one adoptive parent is an active duty or retired  
88 member of the military or military reserves, and (c) a completed request to the Virginia Department of  
89 Health that a new certificate of birth for the registrant be prepared. Requirements set forth in §§ 32.1-271,  
90 32.1-272, and 32.1-273 shall apply to the disclosure of information or issuance of the adopted registrant's  
91 new certificate of birth.

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