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HOUSE BILL NO. 664

Offered January 14, 2026

Prefiled January 13, 2026

A BILL to amend and reenact §§ 32.1-261 and 63.2-1246 of the Code of Virginia, relating to adult adoptee access to original birth certificate; contact preference form.

Patron—Walker

Referred to Committee on Health and Human Services

Be it enacted by the General Assembly of Virginia:

1. That §§ 32.1-261 and 63.2-1246 of the Code of Virginia are amended and reenacted as follows:

§ 32.1-261. New certificate of birth established on proof of adoption 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~~,~~ *or* paternity ~~or legitimation~~ shall be sealed and filed and *shall* 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.~~ *Evidence of adoption shall not be subject to inspection except upon request by the adult adopted person pursuant to § 63.2-1246, upon order of a court of the Commonwealth, or in accordance with § 32.1-252. The State Registrar may impose a reasonable fee to cover the costs of providing access to or copies of original birth certificates.*

C. Upon receipt of a report of an amended decree of adoption, the certificate of birth shall be amended as provided by regulation. *An original certificate of birth sealed and filed with the State Registrar shall not be subject to amendment.*

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

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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 receipt of a report or final order of adoption entered in a court of the Commonwealth as provided in § 32.1-262; 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. If a circuit court of the Commonwealth corrects or establishes a date of birth for a person born in a foreign country during the adoption proceedings or upon a petition to amend a certificate of foreign birth, the State Registrar shall issue a certificate showing the date of birth established by the court. 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 the Commonwealth or in accordance with § 32.1-252. The birth certificate shall (i) show the true or probable foreign country of birth and (ii) state that the certificate is not evidence of United States citizenship for the child for whom it is issued or for the adoptive parents. However, for any adopted person who has attained United States citizenship, the State Registrar shall, upon request and receipt of evidence demonstrating such citizenship, establish and register a new certificate of birth that does not contain the statement required by clause (ii).

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.

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

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

I. A birth parent may at any time request from the State Registrar a contact preference form that shall accompany the adopted person's original birth certificate. Such form shall be completed at the option of the birth parent who shall indicate the following intentions: (i) the birth parent would like to be contacted; (ii) the birth parent would prefer to be contacted only through an intermediary; or (iii) the birth parent would prefer not to be contacted at this time, and if the birth parent decides later that they would like to be contacted, they will submit an updated contact preference form to the State Registrar. Such form shall be confidential communication from the birth parent to the person named on the original birth certificate and shall be placed with the sealed original birth certificate. If the contact preference form is replaced at any time by the birth parent, the State Registrar may destroy the previous form. The contact preference form shall be released to an adopted person when he requests his original birth certificate pursuant to subsection B.

§ 63.2-1246. Disposition of reports; disclosure of information as to identity of birth family.

Upon the entry of a final order of adoption, the clerk of the circuit court in which it was entered shall forthwith transmit to the Commissioner all orders and reports made in connection with the case, and the Commissioner shall preserve such orders and reports in a separate file pursuant to this section and § 63.2-1246.1. Except as provided in § 63.2-1246.1 and subsections C, D, and E of § 63.2-1247, nonidentifying information from such adoption file shall not be open to inspection, or be copied, by anyone other than the adopted person, if 18 years of age or over, or licensed or authorized child-placing agencies providing services to the child or the adoptive parents, except upon the order of a circuit court entered upon good cause shown. However, if the adoptive parents, or either of them, is living, the adopted person shall not be permitted to inspect the home study of the adoptive parents unless the Commissioner first obtains written permission to do so from such adoptive parent or parents.

No identifying information from such adoption file shall be disclosed, open to inspection, or made available to be copied except as provided in § 63.2-1246.1 and subsections A, B, and E of § 63.2-1247 or upon application of the adopted person, if 18 years of age or over, to the Commissioner, who shall designate the person or agency that made the investigation to attempt to locate and advise the birth family of the application. The designated person or agency shall report the results of the attempt to locate and advise the

birth family to the Commissioner, including the relative effects that disclosure of the identifying information may have on the adopted person, the adoptive parents, and the birth family. The adopted person and the birth family may submit to the Commissioner, and the Commissioner shall consider, written comments stating the anticipated effect that the disclosure of identifying information may have upon any party. Upon a showing of good cause, the Commissioner shall disclose the identifying information. If the Commissioner fails to designate a person or agency to attempt to locate the birth family within 30 days of receipt of the application, or if the Commissioner denies disclosure of the identifying information after receiving the designated person's or agency's report, the adopted person may apply to the circuit court for an order to disclose such information. Such order shall be entered only upon good cause shown after notice to and opportunity for hearing by the applicant for such order and the person or agency that made the investigation. "Good cause" when used in this section ~~shall mean~~ *means* a showing of a compelling and necessitous need for the identifying information.

An eligible adoptee who is a resident of Virginia may apply for the court order provided for herein to (i) the circuit court of the county or city where the adoptee resides or (ii) the circuit court of the county or city where the central office of the Department is located. An eligible adoptee who is not a resident of Virginia shall apply for such a court order to the circuit court of the county or city where the central office of the Department is located.

If the identity and whereabouts of the adoptive parents and the birth parents are known to the person or agency, the circuit court may require the person or agency to advise the adoptive parents and the birth parents of the pendency of the application for such order. In determining good cause for the disclosure of such information, the circuit court shall consider the relative effects of such action upon the adopted person, the adoptive parents, and the birth parents. The adopted person and the birth family may submit to the circuit court, and the circuit court shall consider, written comments stating the anticipated effect that the disclosure of identifying information may have upon any party.

When consent of the birth parents is not obtainable, due to the death of the birth parents or mental incapacity of the birth parents, the Commissioner shall, upon application of the adult adopted person and a showing of good cause, disclose the identifying information to the adult adopted person. If the Commissioner denies disclosure of the identifying information, the adult adopted person may apply to the circuit court for an order to disclose such information and the circuit court may release identifying information to the adult adopted person. In making this decision, the circuit court shall consider the needs and concerns of the adopted person and the birth family if such information is available, the actions the agency took to locate the birth family, the information in the agency's report, and the recommendation of the agency.

The Commissioner, person, or agency may charge a reasonable fee to cover the costs of processing requests for nonidentifying information.

Upon entry of a final order of adoption, the child-placing agency or local board shall transmit to the Commissioner the adoption file in connection with the case, which shall be preserved by the Commissioner in accordance with this section and § 63.2-1246.1.

For purposes of this chapter, "adoption file" means records, orders, and other documents kept or created by the Commissioner, child-placing agency, or local board, beginning with the earliest of (i) an order terminating residual parental rights, (ii) an entrustment agreement, (iii) a home study or investigation conducted in preparation for adoption, or (iv) the filing of a petition for adoption, and ending with the final order of adoption. "Adoption file" also includes all records regarding applications for disclosure and post-adoption searches pursuant to this section and § 63.2-1247.

Notwithstanding the provisions of this section, upon written request to the State Registrar and proof of identification, the State Registrar shall provide an adult adopted person access to his original birth certificate and contact preference form pursuant to subsection I of § 32.1-261. The State Registrar may charge a reasonable fee to cover the costs of providing access to or copies of original birth certificates.