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SOCIETY

BIRTH RECORD: Getting it, or Changing it

Establishing a birth record when none was completed at time of birth:

If, for whatever reason, there was no birth certificate prepared and registered at the time of birth, there are steps you can take to get a birth certificate registered at the Virginia Department of Health (VDH), Office of Vital Records.

To establish a birth record within seven years of the date of birth, you may fill out an Application for Certification of a Vital Record, which may be obtained from the Virginia Office of Vital Records:

VDH, Office of Vital Records
and Health Statistics
P.O. Box 1000
Richmond, Virginia
23218-1000

The application can be found online at www.vdh.state.va.us/vital_records/ or you may call the customer service department at 804-662-6200. Your application for a vital record must include the \$12.00 fee, in the form of a check or money order, and the following information:

- Name at birth
- Date of birth
- Place of birth
- Mother's Maiden name
- Father's name (unless the mother was not married to the father at the time of birth, or during the 10 months before the child's birth)

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- Relationship to the person on the certificate
- Reason for the certificate
- Area code + daytime phone number

Applying for Delayed Birth Records:

If the date of birth is longer ago than seven years, then you must apply to the State Registrar for a “delayed birth certificate.” The same information required for a standard birth certificate (above) must be provided for a delayed birth certificate. A delayed birth certificate application is made on forms supplied by the State Registrar. It must be signed in front of a notary public by the person who is requesting that their birth be registered, if they are an adult, competent, and can swear to the accuracy of the information stated in the application. If the applicant is not able to sign as a competent adult, then the application can be signed in front of a notary public by a parent, guardian, legal representative, or an older person who can swear that the facts stated in the application are accurate.

The birth facts listed in the delayed birth certificate must be supported by at least two documents if:

- One of the documents was established before the applicant’s seventh birthday, or
- The applicant is age 15 or under.

If neither of these conditions applies, then the State Registrar requires three original pieces of documentary evidence, which may include:

- School admission records
- Physician records
- Insurance applications
- Baptismal records
- Federal census abstracts
- Immunization records
- Passports

The application must also include one original affidavit of personal knowledge (a statement by someone who has knowledge of all the facts surrounding the birth, signed in front of a notary public) as an additional supporting document. All documents except the affidavit of personal knowledge will be returned after the State Registrar’s review.

The State Registrar determines whether the evidence submitted conforms to Virginia law, and is sufficient to file a delayed birth certificate. If the proper documents are not submitted, or the Registrar determines that there is a reason to question the delayed registration, then the delayed birth certificate will be rejected and the applicant will be notified of the reasons for the rejection.

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If the application is accepted, then the Registrar will enter a description of each piece of documentary evidence, and the date of filing the delayed registration, on the delayed birth certificate.

Petitioning the Circuit Court for a Delayed Birth Record:

If the State Registrar rejects the application for a delayed birth record, the Registrar must send the applicant a letter stating why the application was denied and include a form to petition the Circuit Court to establish the birth record. The petition may be filed in the Circuit Court of the county or city where the applicant resides, or where the birth took place. A next friend may file the petition on behalf of a minor if there is no parent or guardian.

The petition shall state:

- That the applicant was born in the Commonwealth of Virginia,
- That there is no birth record in the records of the State Registrar or the county or city registrar,
- That the petitioner has attempted and failed to obtain the evidence required by the State Registrar,
- That the State Registrar has refused to register a delayed birth certificate; and
- Any other claims that are necessary and relevant to the petition.

The petition must include the State Registrar's notice of rejection, and all documentary evidence that was submitted to the Registrar with the delayed birth certificate application.

The court will then set a hearing date and the petitioner must give the State Registrar five days' notice of the hearing date. The Registrar or an authorized representative may appear and testify at the hearing.

If the court determines that the evidence is sufficient to establish a birth record, then the order will be entered on a form provided by the Registrar. The order will include the birth information to be registered and a description of the evidence presented at the hearing. The clerk of court will then forward the form to the State Registrar no later than the tenth day of the month following the hearing date. The Registrar will register the form which shall establish a certificate of birth, a copy of which may be obtained by filling out an application for a vital record.

Changing a birth record:

Certain information on a birth record can be changed by applying to the State Registrar, with reasons for the requested change.

If the child was born out of wedlock and *no father was named* on the initial birth certificate, the birth record can be changed by both parents' sworn signatures on an Acknowledgement of Paternity form, which is available from Vital Records. The parents must also make a written

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request as to whether they want the child's last name to be changed. A new birth certificate then will be issued with the name requested.

Another possibility: Assume that the person who is named as the father on the original birth certificate is *not really the father*. The mother and the actual father now want to change the birth record to show the correct name of the father. This cannot be done by simply signing an Acknowledgement of Paternity. There needs to be a paternity action in court, with the judge deciding who is the biological father.

Similarly: If the mother was married at the time of the birth, or in the 10 months prior to the birth, and the child was *fathered by someone other than her husband*, her husband is still legally presumed to be the father. There needs to be a paternity action in order to get a new birth certificate if someone other than her husband is proved to be the father.

Getting a copy of a birth record:

The State Registrar (or the city or county registrar) will provide a certified copy of a birth record if the person asking for it has a direct interest in it, and it's necessary for the determination or protection of personal or property rights.

The request for the record must come from the person whose name it's in, a member of the immediate family (spouse, sibling, child, grandchild, etc.), guardian, or legal representative. This means that an attorney can request it on your behalf.

The person making the request must show a government issued photo ID.

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Free Legal information by Web and Phone: www.vlas.org and
1-866-LegalAid (534-5243)

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