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## Fast track Regulation Agency Background Document

<b>Agency name</b>	State Board of Health
<b>Virginia Administrative Code (VAC) Chapter citation(s)</b>	12VAC5-550
<b>VAC Chapter title(s)</b>	Board of Health Regulation Governing Vital Records
<b>Action title</b>	Amend Regulations Following Statutory Changes
<b>Date this document prepared</b>	4/12/2023

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Order 19 (2022) (EO 19), any instructions or procedures issued by the Office of Regulatory Management (ORM) or the Department of Planning and Budget (DPB) pursuant to EO 19, the Regulations for Filing and Publishing Agency Regulations (1 VAC 7-10), and the *Form and Style Requirements for the Virginia Register of Regulations and Virginia Administrative Code*.

### Brief Summary

*Provide a brief summary (preferably no more than 2 or 3 paragraphs) of this regulatory change (i.e., new regulation, amendments to an existing regulation, or repeal of an existing regulation). Alert the reader to all substantive matters. If applicable, generally describe the existing regulation.*

The fast track action amends the Regulations to reflect several recent changes in the Code of Virginia, including changes to §§ 32.1-258.1, 32.1-269.1, 32.1-261, and 32.1-267. Several sections will be repealed, as these sections are not regulatory in nature. The amendment to 12VAC5-550-520 changes the certification fee from \$10 to \$12 because this fee was changed in the Code and implemented several years ago.

Chapter 171 of the 2022 Acts of Assembly removed the authority to charge a fee to obtain a stillbirth certificate. The business operations of the Office of Vital Records have already been changed to conform to the new law, but the regulations have not yet been changed. Chapters 209, 210, and 211 of the 2020 Acts of Assembly removed race from the data to be collected regarding marriages, divorces, and annulments. Chapters 465 and 466 of the 2020 Acts of Assembly amended the process to change one's sex on a birth certificate. Chapters 116 and 117 of the 2022 Acts of Assembly changed the process and timelines associated with amending a death certificate.

The amendments improve the regulatory language used in the Virginia Administrative Code so that both the public and government organizations have better direction concerning the responsibilities and requirements needed to perform their duties. This should reduce time spent dealing with challenges to processes that are presented by members of the public and will make the operations of the Office of Vital Records more efficient.

## Acronyms and Definitions

*Define all acronyms used in this form, and any technical terms that are not also defined in the "Definitions" section of the regulation.*

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There are no acronyms used in this Agency Background Document that are not also defined in the "Definitions" section of the regulation.

## Statement of Final Agency Action

*Provide a statement of the final action taken by the agency including: 1) the date the action was taken; 2) the name of the agency taking the action; and 3) the title of the regulation.*

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The State Board of Health approved these Fast Track amendments to their Regulations Governing Vital Records (12VAC5-550) on June 15, 2023.

## Mandate and Impetus

*Identify the mandate for this regulatory change and any other impetus that specifically prompted its initiation (e.g., new or modified mandate, petition for rulemaking, periodic review, or board decision). For purposes of executive branch review, "mandate" has the same meaning as defined in the ORM procedures, "a directive from the General Assembly, the federal government, or a court that requires that a regulation be promulgated, amended, or repealed in whole or part."*

*Consistent with Virginia Code § 2.2-4012.1, also explain why this rulemaking is expected to be noncontroversial and therefore appropriate for the fast track rulemaking process.*

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Chapter 171 (2022) removed the authority to charge a fee to obtain a stillbirth certificate for unintended, intrauterine fetal deaths. Chapters 209, 210, and 211 (2020) removed race from the data to be collected regarding marriages, divorces, and annulments. Chapters 465 and 466 (2020) amended the process to change one's sex on a birth certificate. Chapters 116 and 117 (2022) changed the process and timelines associated with amending a death certificate. Additionally, sections 20, 30, 50, and 60 will be repealed because the provisions do not meet the statutory definition of a "regulation" in § 2.2-4001.

The rulemaking is expected to be non-controversial because the substantive changes being made are to comply with changes to the Code of Virginia. Additionally, the style and form changes are not substantive but will make the regulations clearer and more readable for both the public and agency staff.

## Legal Basis

*Identify (1) the promulgating agency, and (2) the state and/or federal legal authority for the regulatory change, including the most relevant citations to the Code of Virginia and Acts of Assembly chapter*

*number(s), if applicable. Your citation must include a specific provision, if any, authorizing the promulgating agency to regulate this specific subject or program, as well as a reference to the agency's overall regulatory authority.*

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The regulation is promulgated by the State Board of Health under the authority of §§ 32.1-12 and 32.1-250 of the Code of Virginia.

Section 32.1-12 grants the Board of Health the legal authority to make, adopt, promulgate, and enforce regulations necessary to carry out the provisions of Title 32.1 of the Code and other laws of the Commonwealth administered by it. Section 32.1-250 of the Code of Virginia requires the Board of Health to install, maintain and operate the only system of vital records throughout the Commonwealth.

Specific changes being made are authorized by Chapters 209, 210, 211, 465, and 466 (2020) and 116, 117, and 171 (2022). The fee amount in Section 520 is being updated to reflect the amount in Item 290 A, Chapter 2 of the 2022 Acts of Assembly, Special Session I.

### Purpose

*Explain the need for the regulatory change, including a description of: (1) the rationale or justification, (2) the specific reasons the regulatory change is essential to protect the health, safety, or welfare of citizens, and (3) the goals of the regulatory change and the problems it is intended to solve.*

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This fast track action is essential to ensure the regulations that govern the business processes of the VDH Office of Vital Records are in conformance with provisions of the Code of Virginia. This fast track action also seeks to increase the clarity, accuracy, and completeness of the regulations governing vital records.

### Substance

*Briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both. A more detailed discussion is provided in the "Detail of Changes" section below.*

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- 12VAC5-550-5. Definitions are updated to make the Regulations easier to understand.
- 12VAC5-550-20, 12VAC5-550-30, 12VAC5-550-50, and 12VAC5-550-60 have been repealed. These provisions do not meet the statutory definition of a "regulation" in § 2.2-4001 and are unnecessary.
- 12VAC5-550-125. Certificate of birth resulting in a stillbirth for unintended, intrauterine fetal deaths. The changes remove the fee for this type of vital record.
- 12VAC5-550-130. Marriage return and certificate items. The changes identify the specific form that will be used for this action and required items on the form, which facilitates the removal of race as a certificate item.
- 12VAC5-550-140. Report of divorce or annulment. The changes identify the specific form that will be used for this action and required items on the form, which facilitates the removal of race as a certificate item.
- 12VAC5-550-320. Change of Sex. The changes identify the specific form that will be used for this action, clarify the language, and conform the regulation to the Code of Virginia.

- 12VAC5-550-440. Applications for correction. The changes update the timeframe for amending a death certificate and clarify how the amendment can be accomplished consistent with the Code.
- 12VAC5-550-450. Evidence required for corrections or amendments. The changes add to and clarify the requirements for changes made to a death record.
- 12VAC5-550-460. Methods of correcting or altering certificates. The changes define “amendment” to bring consistency and clarity to the regulations.
- 12VAC5-550-520. Fees. This fee is being updated to reflect Item 290 A, Chapter 2 of the 2022 Acts of Assembly, Special Session I.
- 12VAC5-550-9998 FORMS. Forms that are only used internally by OVR staff are being removed, the effective dates of all necessary forms are being updated, along with links to the documents.

**Issues**

*Identify the issues associated with the regulatory change, including: 1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions; 2) the primary advantages and disadvantages to the agency or the Commonwealth; and 3) other pertinent matters of interest to the regulated community, government officials, and the public. If there are no disadvantages to the public or the Commonwealth, include a specific statement to that effect.*

The primary advantages to the public, the Agency, and the Commonwealth include the enhanced integrity of the regulations governing vital records and in turn the system of vital records within the Commonwealth. There are no known disadvantages to the public, regulated entities, business entities, or the Commonwealth.

**Requirements More Restrictive than Federal**

*Identify and describe any requirement of the regulatory change which is more restrictive than applicable federal requirements. Include a specific citation for each applicable federal requirement, and a rationale for the need for the more restrictive requirements. If there are no applicable federal requirements, or no requirements that exceed applicable federal requirements, include a specific statement to that effect.*

There are no requirements of this proposal that are more restrictive than applicable federal requirements.

**Agencies, Localities, and Other Entities Particularly Affected**

*Consistent with § 2.2-4007.04 of the Code of Virginia, identify any other state agencies, localities, or other entities particularly affected by the regulatory change. Other entities could include local partners such as tribal governments, school boards, community services boards, and similar regional organizations. “Particularly affected” are those that are likely to bear any identified disproportionate material impact which would not be experienced by other agencies, localities, or entities. “Locality” can refer to either local governments or the locations in the Commonwealth where the activities relevant to the regulation or regulatory change are most likely to occur. If no agency, locality, or entity is particularly affected, include a specific statement to that effect.*

- Other State Agencies Particularly Affected: No other agency will be affected by these fast track amendments.
- Localities Particularly Affected: There are no localities that will be affected by these fast track amendments.
- Other Entities Particularly Affected: Members of the public filing or amending vital records are affected by the process changes – however, because the regulatory changes are to comply with previous changes in the Code, no other entity will be affected solely by the regulatory changes.

**Economic Impact**

*Consistent with § 2.2-4007.04 of the Code of Virginia, identify all specific economic impacts (costs and/or benefits), anticipated to result from the regulatory change. When describing a particular economic impact, specify which new requirement or change in requirement creates the anticipated economic impact. Keep in mind that this is the proposed change versus the status quo.*

**Impact on State Agencies**

<i>For your agency:</i> projected costs, savings, fees, or revenues resulting from the regulatory change, including: a) fund source/fund detail; b) delineation of one-time versus ongoing expenditures; and c) whether any costs or revenue loss can be absorbed within existing resources	The projected cost to the Virginia Department of Health to implement and enforce this regulatory proposal is negligible. It will not interrupt or affect business operations within the Office of Vital Records.
<i>For other state agencies:</i> projected costs, savings, fees, or revenues resulting from the regulatory change, including a delineation of one-time versus ongoing expenditures.	There is no projected cost to other state agencies to implement and enforce this regulatory proposal.
<i>For all agencies:</i> Benefits the regulatory change is designed to produce.	None.

**Impact on Localities**

*If this analysis has been reported on the ORM Economic Impact form, indicate the tables (1a or 2) on which it was reported. Information provided on that form need not be repeated here.*

Projected costs, savings, fees or revenues resulting from the regulatory change.	Implementing and enforcing this regulatory proposal will not produce a cost to any localities.
Benefits the regulatory change is designed to produce.	None.

**Impact on Other Entities**

*If this analysis has been reported on the ORM Economic Impact form, indicate the tables (1a, 3, or 4) on which it was reported. Information provided on that form need not be repeated here.*

Description of the individuals, businesses, or other entities likely to be affected by the regulatory change. If no other entities will be	The analysis has been reported in tables 1a, 3, and 4 on the ORM Economic Review form.
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affected, include a specific statement to that effect.	
Agency's best estimate of the number of such entities that will be affected. Include an estimate of the number of small businesses affected. Small business means a business entity, including its affiliates, that: a) is independently owned and operated and; b) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million.	The analysis has been reported in tables 1a, 3, and 4 on the ORM Economic Review form.
All projected costs for affected individuals, businesses, or other entities resulting from the regulatory change. Be specific and include all costs including, but not limited to: a) projected reporting, recordkeeping, and other administrative costs required for compliance by small businesses; b) specify any costs related to the development of real estate for commercial or residential purposes that are a consequence of the regulatory change; c) fees; d) purchases of equipment or services; and e) time required to comply with the requirements.	The analysis has been reported in tables 1a, 3, and 4 on the ORM Economic Review form.
Benefits the regulatory change is designed to produce.	The analysis has been reported in tables 1a, 3, and 4 on the ORM Economic Review form.

### Alternatives to Regulation

*Describe any viable alternatives to the regulatory change that were considered, and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the regulatory change. Also, include discussion of less intrusive or less costly alternatives for small businesses, as defined in § 2.2-4007.1 of the Code of Virginia, of achieving the purpose of the regulatory change.*

*If this analysis has been reported on the ORM Economic Impact form, indicate the tables on which it was reported. Information provided on that form need not be repeated here.*

There are no viable alternatives to the proposal considered. The regulatory action is necessary to make corrections to the existing regulations, provide clarification to regulatory language, and add additional regulatory sections required by changes to the Code of Virginia.

### Regulatory Flexibility Analysis

*Consistent with § 2.2-4007.1 B of the Code of Virginia, describe the agency's analysis of alternative regulatory methods, consistent with health, safety, environmental, and economic welfare, that will accomplish the objectives of applicable law while minimizing the adverse impact on small business. Alternative regulatory methods include, at a minimum: 1) establishing less stringent compliance or reporting requirements; 2) establishing less stringent schedules or deadlines for compliance or reporting requirements; 3) consolidation or simplification of compliance or reporting requirements; 4) establishing performance standards for small businesses to replace design or operational standards required in the proposed regulation; and 5) the exemption of small businesses from all or any part of the requirements contained in the regulatory change.*

No alternative regulatory methods are available to the agency. These changes are being made to comply with the Code of Virginia and make non-substantive changes for the purpose of clarity and readability; they do not address compliance and reduce reporting requirements, and the regulations do not impact small businesses.

## Public Participation

*Indicate how the public should contact the agency to submit comments on this regulation, and whether a public hearing will be held, by completing the text below.*

*Consistent with § 2.2-4011 of the Code of Virginia, if an objection to the use of the fast track process is received within the 30-day public comment period from 10 or more persons, any member of the applicable standing committee of either house of the General Assembly or of the Joint Commission on Administrative Rules, the agency shall: 1) file notice of the objections with the Registrar of Regulations for publication in the Virginia Register and 2) proceed with the normal promulgation process with the initial publication of the fast track regulation serving as the Notice of Intended Regulatory Action.*

If you are objecting to the use of the fast track process as the means of promulgating this regulation, please clearly indicate your objection in your comment. Please describe the nature of, and reason for, your objection to using this process.

The Virginia Department of Health is providing an opportunity for comments on this regulatory proposal, including but not limited to (i) the costs and benefits of the regulatory proposal and any alternative approaches, (ii) the potential impacts of the regulation, and (iii) the agency's regulatory flexibility analysis stated in this background document.

Anyone wishing to submit written comments for the public comment file may do so through the Public Comment Forums feature of the Virginia Regulatory Town Hall website at: <https://townhall.virginia.gov>. Comments may also be submitted by mail, email, or fax to

Yolanda Aponte, Office of Vital Records,  
P. O. Box 1000  
Richmond, VA 23218,  
Phone: (804) 482-7939,  
Fax: (804) 662-6256,  
Email: [yolanda.aponte@vdh.virginia.gov](mailto:yolanda.aponte@vdh.virginia.gov).

In order to be considered, comments must be received by 11:59 pm on the last day of the public comment period.

## Detail of Changes

*List all regulatory changes and the consequences of the changes. Explain the new requirements and what they mean rather than merely quoting the text of the regulation. For example, describe the intent of the language and the expected impact. Describe the difference between existing requirement(s) and/or agency practice(s) and what is being proposed in this regulatory change. Use all tables that apply, but delete inapplicable tables.*

*If an existing VAC Chapter(s) is being amended or repealed, use Table 1 to describe the changes between existing VAC Chapter(s) and the proposed regulation. If existing VAC Chapter(s) or sections are being repealed and replaced, ensure Table 1 clearly shows both the current number and the new number for each repealed section and the replacement section.*

Table 1: Changes to Existing VAC Chapter(s)

Current chapter-section number	New chapter-section number, if applicable	Current requirements in VAC	Change, intent, rationale, and likely impact of new requirements
12VAC5-550-5		<p>"In addition to the words and terms defined in § <a href="#">32.1-249</a> of the Code of Virginia, the following words and terms when used in this chapter shall have the following meanings unless the context clearly indicates otherwise:</p> <p>...</p> <p>"Primary evidence" means valid first-hand documentation established before the registrant's 18th birthday, such as school admission records, physician's records, immunization records, passport, federal census abstracts, baptismal records and insurance applications.</p> <p>"Registrant" means the person whose personal information is registered and filed in the systems of vital records.</p> <p>"Secondary evidence" means valid documentation established after the registrant's eighteenth birthday such as marriage records, child's birth certificate, school records, social security records, driver's records, work permit and employment records. Such evidence must be at least five years old."</p>	<p><b>CHANGE:</b> The definition of "primary evidence" is being updated to replace the words "such as" with "including." The definition for "registrant" is being updated to mean the person whose personal information is "<u>primarily</u> registered <u>on a vital record...</u>" (new language underlined.) The definition of "secondary evidence" is being updated to replace "such as" with "including," make a style change, and remove reference to the requirement that the evidence be at least five years old. A definition for "registrar" is also being added.</p> <p><b>INTENT:</b> The intent is to increase the clarity of those definitions being amended. The update to the definition of "registrant" is intended to specify the person considered to be a registrant, as the information of more than one person may be included on a vital record. For example, a parent's information is included on their child's birth certificate, but the child is considered the registrant. The intent of adding a definition for "registrar" is to be able to identify tasks that can be performed by the State Registrar or any other in the Commonwealth.</p> <p><b>RATIONALE:</b> The rationale is that clearer regulations are better for the public and for agency staff administering them. The definition for "secondary evidence" also contained a substantive requirement, which should not be included in a "Definitions" section and has been moved to Section 450.</p> <p><b>LIKELY IMPACT:</b> The likely impact is that the regulations will be more readable.</p>
12VAC5-550-20		<p>This section identified the purpose of the regulations.</p>	<p><b>CHANGE:</b> The section is being repealed</p> <p><b>INTENT:</b> The intent is to repeal non-regulatory provisions, which are unnecessary.</p> <p><b>RATIONALE:</b> The rationale is that the provisions are not regulatory in nature pursuant to the definition of a regulation in § 2.2-4001. The Registrar of Regulations, pursuant to 1VAC7-10-40 (C) has the</p>



			<p>authority to omit non-regulatory and unnecessary provisions from publication.</p> <p><b>LIKELY IMPACT:</b> The regulations will be shorter and not contain unnecessary language.</p>
12VAC5-550-30		<p>This section identifies the “administration” of the chapter.</p>	<p><b>CHANGE:</b> The section is being repealed</p> <p><b>INTENT:</b> The intent is to repeal non-regulatory provisions, which are unnecessary.</p> <p><b>RATIONALE:</b> The rationale is that the provisions are not regulatory in nature pursuant to the definition of a regulation in § 2.2-4001. By nature of being promulgated by the Board of Health under its basic laws, the administration of the chapter is already set forth in the Code of Virginia. The Registrar of Regulations, pursuant to 1VAC7-10-40 (C) has the authority to omit non-regulatory and unnecessary provisions from publication.</p> <p><b>LIKELY IMPACT:</b> The regulations will be shorter and not contain unnecessary language.</p>
12VAC5-550-50		<p>This section indicates that the Administrative Process Act (APA) applies to the regulation.</p>	<p><b>CHANGE:</b> The section is being repealed</p> <p><b>INTENT:</b> The intent is to repeal non-regulatory provisions, which are unnecessary.</p> <p><b>RATIONALE:</b> The rationale is that the provisions are not regulatory in nature pursuant to the definition of a regulation in § 2.2-4001. The APA applies without including a statement to that effect in the regulation. The Registrar of Regulations, pursuant to 1VAC7-10-40 (C) has the authority to omit non-regulatory and unnecessary provisions from publication.</p> <p><b>LIKELY IMPACT:</b> The regulations will be shorter and not contain unnecessary language.</p>
12VAC5-550-60		<p>“The board reserves the right to authorize any procedure for the enforcement of this chapter that is not inconsistent with the provisions set forth herein and the provisions of Chapter 7 of Title 32.1 of the Code of Virginia.”</p>	<p><b>CHANGE:</b> The section is being repealed</p> <p><b>INTENT:</b> The intent is to repeal non-regulatory provisions, which are unnecessary. The Registrar of Regulations, pursuant to 1VAC7-10-40 (C) has the authority to omit non-regulatory and unnecessary provisions from publication.</p> <p><b>RATIONALE:</b> The rationale is that the provisions are not regulatory in nature pursuant to the definition of a regulation in § 2.2-4001. The section does not define or</p>

			<p>specify any specific power or procedure to be followed by a regulated entity or by the agency, and the Board's powers are already set forth in the Code of Virginia.</p> <p><b>LIKELY IMPACT:</b> The regulations will be shorter and not contain unnecessary language.</p>
12VAC5-550-125		<p>This section describes the process by which a parent may receive a Certificate of Birth Resulting in Stillbirth.</p>	<p><b>CHANGE:</b> The change is to remove the requirement to pay a fee to receive a Certificate pursuant to the section. Multiple changes in style and form are also made.</p> <p><b>INTENT:</b> The intent is to provide stillbirth certificates free of charge. The requirements for the certificate have been reorganized for clarity and to make the section consistent with the Registrar of Regulations' <i>Form and Style Requirements for the Virginia Register of Regulations and Virginia Administrative Code</i> ("Style Requirements").</p> <p><b>RATIONALE:</b> Chapter 171 (2022) removed the authority to charge a fee associated with obtaining a stillbirth certificate for unintended, intrauterine fetal deaths. Also, regulatory language should conform to the <i>Style Requirements</i> to ensure concise, clear, and consistent regulatory language.</p> <p><b>LIKELY IMPACT:</b> The impact of the change is negligible, as there are very few stillbirth certificates produced each year, and the loss of revenue is minimal. In Virginia, there were approximately 2,800 unintended, intrauterine fetal deaths between 2018 and 2020; which led to only 229 applications for certificates. For those wishing to obtain a certificate, though, they can do so free of charge. The language will also be more readable.</p>
12VAC5-550-130		<p>This section included the form to be used to register a marriage and the items to be included on the form.</p>	<p><b>CHANGE:</b> The section will be updated to reference the process by which an officer issuing marriage licenses is to report those marriages to the State Registrar of Vital Records, including the form. It will also reference the form required to be used by members of the public to obtain a certified copy of a marriage certificate. The word "items" is also stricken from the section title.</p> <p><b>INTENT:</b> The intent is to make the regulations clearer and more reflective of the processes governed by the State Registrar and to reference the required forms to be used. In effect, because the forms no longer require race to be reported, it removes the current requirement which is unenforceable.</p>

			<p><b>RATIONALE:</b> The rationale is that Chapters 209, 210, and 211 (2020), prompted by the order in a federal court case, <i>Rogers v. Virginia State Registrar</i>, 507 F. Supp. 3d 664 (E.D. Va. 2019), removed the reporting of race from marriage applications, licenses, and records.</p> <p><b>LIKELY IMPACT:</b> The regulations will comply with the Code of Virginia.</p>
<p>12VAC5-550-140</p>		<p>This section included the form to be used to register a divorce or annulment and the items to be included on the form.</p>	<p><b>CHANGE:</b> The section will be updated to reference the process by which a clerk of the court granting decrees of divorce and annulment to the State Registrar of Vital Records, including the form. It will also reference the form required to be used by members of the public to obtain a certified copy of a divorce or annulment certificate. The word “items” is also being stricken from the section title.</p> <p><b>INTENT:</b> The intent is make the regulations clearer and more reflective of the processes governed by the State Registrar and to reference the required forms to be used. In effect, because the forms no longer require race to be reported, it removes the current requirement which is unenforceable.</p> <p><b>RATIONALE:</b> The rationale is that Chapters 209, 210, and 211 (2020), prompted by the order in a federal court case, <i>Rogers v. Virginia State Registrar</i>, 507 F. Supp. 3d 664 (E.D. Va. 2019), removed the reporting of race from divorce and annulment records.</p> <p><b>LIKELY IMPACT:</b> The regulations will comply with the Code of Virginia.</p>
<p>12VAC5-550-320</p>		<p>This section describes the process by which a person may obtain a new birth certificate to reflect a change in sex and associated name change. The regulations currently require evidence of specific surgical procedures and diagnoses and a court order.</p>	<p><b>CHANGE:</b> The section still describes the process but refers to the specific form to be used, which is to be completed by a healthcare provider who has provided clinically appropriate treatment. It removes the requirement to submit a court order changing one’s sex. The section maintains a reference to the process by which a person changing the sex on their birth certificate may change their name but specifies the evidence that may be required. The amendment also updates the style and form of the language.</p> <p><b>INTENT:</b> The intent is to conform the process to the Code of Virginia and clarify the process and form to change one’s sex as it appears on a birth certificate. The intent is also to include in the regulations a</p>

			<p>reference to the evidence requirements the State Registrar’s Office may need to accurately identify the birth certificate corresponding to the person requesting the change of sex. Also, regulatory language should conform to the <i>Style Requirements</i> to ensure concise, clear, and consistent regulatory language.</p> <p><b>RATIONALE:</b> The rationale is that Chapters 465 and 466 (2020) amended the process to change one’s sex on their birth certificate in the Code of Virginia. The amendment prohibited requirements for evidence or documentation of any medical procedure and required the submission of a specific form to the State Registrar that is completed and signed by a health care provider confirming clinically appropriate treatment for gender transition. Additionally, a court order granting a name change may not contain enough information to accurately identify the person’s birth certificate, as multiple people born in the Commonwealth have the same name. The Office of Vital Records may need to inspect additional information, which the person would have submitted to the Circuit Court to obtain the court order changing their name, to accurately make that identification.</p> <p><b>LIKELY IMPACT:</b> The regulations will comply with the Code of Virginia and more clearly and accurately reflect the process to change one’s sex and name.</p>
<p>12VAC5-550-440</p>		<p>This section describes the process and requirements to correct or amend a vital record.</p>	<p><b>CHANGE:</b> The subsections related to amending a birth certificate or marriage, divorce, or annulment record will be updated to make style and form changes. The regulation has been amended to specify that only a State Registrar may correct a birth certificate within the first 30 days of filing of the certificate of birth form. The amendment is not a change in practice, as corrections to birth certificates are currently processed by the State Registrar. The death certificate amendment procedure will also be updated to allow for changes to be made administratively (i.e., without a court order) within 45 days instead of 30 and beyond 45 days in certain circumstances. The requirement that the cause of death may only be amended by the attending physician or medical examiner has been changed to indicate that the cause of death may be amended only by the provider who completed the registrant’s medical certification.</p> <p><b>INTENT:</b> The intent of the style and form changes is to conform the section to the</p>

			<p><i>Style Requirements.</i> The intent of the substantive changes are to (i) clarify who may process corrections to a birth certificate within 30 days of filing; (ii) clarify the process by which a person may amend a death certificate, which includes an additional 15 days to request an administrative amendment; (iii) allow persons authorized by §32.1-263 (C) of the Code of Virginia to medically certify the cause of death to amend the cause of death on death certificates; and (iv) provide a way for persons without access to forms provided by the State Registrar to request amendments (e.g. persons without internet/broadband to download the forms).</p> <p><b>RATIONALE:</b> The rationale is that the death certificate amendment process in the Code of Virginia was changed by Chapters 116 and 117 (2022). The rationale to accepting written statements requesting birth certificate amendments is to provide more accessibility to the amendment process. The rationale for specifying that only the State Registrar may process corrections within 30 days of filing a birth certificate is to bring clarity to who may make such corrections during the 30-day timeframe. Also, regulatory language should conform to the <i>Style Requirements</i> to ensure concise, clear, and consistent regulatory language.</p> <p><b>LIKELY IMPACT:</b> The regulations will comply with the Code of Virginia and members of the public who wish to amend a death certificate will utilize the new process and timelines. Readers will better understand who can process corrections to resolve errors entered on a birth certificate within the first 30 days of filing. Medical certifiers completing cause of death information will be authorized to amend the cause of death on a death certificate. Members of the public will have better access to the birth certificate amendment process through acceptance of written statements requesting changes to birth certificate information. Additionally, the regulation will be clearer and more readable.</p>
12VAC5-550-450		This section describes the evidence that a person is required to submit to request an amendment to a vital record.	<p><b>CHANGE:</b> The requirements related to amending birth and death certificates are separated. There are also minimal style changes made to the first paragraph of subsection A. The requirement that secondary evidence be at least five years old has been moved from the definitions section to here, and an exception has been added to allow secondary evidence used to</p>

			<p>amend death certificates to be less than five years old.</p> <p><b>INTENT:</b> The intent is to clarify the difference between the evidence required to change a birth certificate vs. a death certificate. Also, regulatory language should conform to the <i>Style Requirements</i> to ensure concise, clear, and consistent regulatory language.</p> <p><b>RATIONALE:</b> The rationale is that the process by which a death certificate can be amended, and subsequently the evidence needed, were changed by Chapters 116 and 117 (2022). The current regulatory requirements do not distinguish between the two types of certificates, though the process for each is now different.</p> <p><b>LIKELY IMPACT:</b> The regulations will comply with the Code of Virginia and members of the public who wish to amend a death certificate will utilize the new process and timelines. Secondary evidence requirements will be clear, and those amending death certificates may begin to submit secondary evidence that is less than five years old. Additionally, the regulation will be clearer and more readable.</p>
<p>12VAC5-550-460</p>		<p>This section describes how the registrar makes requested and authorized amendments to vital records.</p>	<p><b>CHANGE:</b> The changes are mostly non-substantive and in only style and form. Subsection A will be amended to change the provision that a birth certificate on which a name is amended within seven years will not be considered as an amendment to the vital record– the timeframe will be reduced to one year and considered as an administrative change.</p> <p><b>INTENT:</b> The intent of the style changes is to conform the regulations to the <i>Style Requirements</i>. The change regarding the timeframe in which a name may be changed without considering a birth certificate to be amended is intended to comply with § 32.1-269 (B) of the Code.</p> <p><b>RATIONALE:</b> Regulatory language should conform to the <i>Style Requirements</i> to ensure concise, clear, and consistent regulatory language. Also, § 32.1-269 (B) requires the Board to “prescribe by regulation the conditions under which omissions or errors on certificates [...] may be corrected within one year after the date of the event without the certificate being marked amended.” The process will be</p>

			<p>updated to reflect that one-year point instead of seven years.</p> <p><b>LIKELY IMPACT:</b> Most changes clarify the language, but also include a clarification of the timeline associated with the term “amendment” to now refer to changes made after one year from the date of the vital event. This change is needed to support the other changes to Regulations pertaining to vital records amendments which are necessary due to Chapters 116 and 117 of the 2022 Acts of Assembly.</p>
<p>12VAC5-550-520</p>		<p>A. The fee to be charged by the State Registrar or by the city or county registrar shall be \$10 for each full certification or short-form certification of a vital record, or for a search of the files or records when no copy is made.</p> <p>B. When documents are amended or delayed birth registration is requested, the requester shall be charged an administrative fee of \$10.</p>	<p><b>CHANGE:</b> The change is to update the fee for a certified copy from \$10 to \$12 unless otherwise directed in the Code. There are also style and form changes made to the section.</p> <p><b>INTENT:</b> The intent is to conform the regulations to the Appropriation Act, which sets the fee at \$12, and to reference the special circumstances in which no fee is to be charged. The intent is also to conform the language to the <i>Style Requirements</i>.</p> <p><b>RATIONALE:</b> Item 309 A, Chapter 4 of the 2004 Acts of Assembly, Special Session I initially updated the “standard vital records fee” to \$12. Item 290 A, Chapter 2 of the 2022 Acts of Assembly, Special Session I, includes that language. Also, regulatory language should conform to the <i>Style Requirements</i> to ensure concise, clear, and consistent regulatory language.</p> <p><b>LIKELY IMPACT:</b> The regulations will conform to the Appropriation Act language.</p>
<p>FORMS (12VAC5-550)</p>		<p>The section listed 17 forms used by the State Registrar of Vital Records.</p>	<p><b>CHANGE:</b> Forms only used by the Office of Vital Records, which include vital record templates, will be removed. The applications for a Birth Record, Marriage-Divorce Record, Death Record, Stillbirth Certificate, form to change sex designation, and request to amend a birth certificate are all added. Additionally, the report of adoption, acknowledgment of paternity, and affidavit for correction of a record are all updated to reflect the most updated and effective version of the form.</p> <p><b>INTENT:</b> The intent is to only list those forms that are used by the public and to ensure access to the most up-to-date versions of the forms.</p> <p><b>RATIONALE:</b> The rationale is that forms listed in the section should include access to printable or downloadable versions of the</p>

			<p>form and vital record/certificate templates should not be publicly accessible. The forms that members of the public need or are required to use should be listed and accessible.</p> <p><b>LIKELY IMPACT:</b> The public will have access via the regulations in the VAC online to all relevant forms. Also, the section will be more concise with the removal of unnecessary references to other forms.</p>
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