S.28

An act relating to gender-neutral nomenclature for the identification of parents on birth certificates

It is hereby enacted by the General Assembly of the State of Vermont:

Sec. 1. 18 V.S.A. § 5071 is amended to read:

§ 5071. BIRTH CERTIFICATES; WHO TO MAKE; RETURN

(a) ~~Unless a physician or midwife is present, the head of the family in which a birth occurs, within 10 days thereafter, shall fill out and file with the town clerk a certificate of birth in the form prescribed by the department. Otherwise the certificate shall be filed by the attendant physician or midwife~~ On or before the fifth day of each live birth that occurs in this State, the attending physician or midwife or, if no attending physician or midwife is present, a parent of the child or a legal guardian of a mother under 18 years of age shall file with the town clerk a certificate of birth in the form prescribed by the Department. The certificate shall be registered if it has been completed properly and filed in accordance with this chapter.

(b) At the time of the birth of a child, each parent shall furnish the following information on a form provided for that purpose by the ~~department of health~~ Department of Health: the parent's name, address, and ~~social security~~ Social Security number and the name and date of birth of the child. The forms and a copy of the birth certificate shall be filed with the ~~department~~

~~of health not later than 10 days~~ Department of Health on or before the fifth day after the birth of the child.

(c)(1) Whoever assumes the custody of a live-born infant of unknown parentage shall complete a certificate of birth as follows:

~~(1)~~(A) ~~Name~~ name of the child as given by the custodian, and sex;

~~(2)~~(B) ~~Approximate~~ approximate date of birth as determined in consultation with a physician;

~~(3)~~(C) ~~Place~~ place of birth as place where the child is found;

~~(4)~~(D) ~~In~~ in place of certifier, the custodian shall sign and indicate "custodian" rather than "attendant," with date and address; and

~~(5)~~(E) ~~Parentage~~ parentage data and other child's data items shall be left blank.

(2) If the child is identified and a certificate of birth is found or obtained, the certificate created under this section and copies thereof shall be sealed and deposited with the ~~commissioner of health~~ Commissioner of Health, to be opened upon court order only.

(d) The name of the father shall be included on the birth certificate of the child of unmarried parents only if the father and mother have signed a voluntary acknowledgment of parentage or a court or administrative agency of competent jurisdiction has issued an adjudication of parentage.

(e) When a birth certificate is issued, a parent or parents shall be identified with gender-neutral nomenclature.

Sec. 2. 18 V.S.A. § 5077a is added to read:

§ 5077a. NEW BIRTH CERTIFICATE DUE TO PARENTAGE FORM

(a) If a parent of a person born in this State was unable to be listed as a parent on the person's birth certificate due to the lack of gender-neutral nomenclature on the birth information form provided by the Department of Health, the person or the person's parent may petition the Probate Division of the Superior Court of the district where the person was born in order establish his or her parentage and be issued a new birth certificate.

(b) The Probate Division of the Superior Court, after hearing, shall authorize the supervisor of vital records registration to issue a new birth certificate and transmit it, together with any information identifying the original birth certificate, to the clerk of the town where the person was born.

(c) The clerk shall file and index the new certificate in the most recent book of births, shall also index them with births occurring at the same time, and shall otherwise comply with the provisions of sections 5080 and 5081 of this title. The new certificate shall contain a notation that it was issued by authority of this chapter, and it shall not contain the word "Amended" or other special designation.

Sec. 3. 15 V.S.A. § 308 is amended to read:

§ 308. PRESUMPTION OF PARENTAGE

A person alleged to be a parent shall be rebuttably presumed to be the natural parent of a child if:

(1) the alleged parent fails to submit without good cause to genetic testing as ordered; or

(2) the alleged parents have voluntarily acknowledged parentage under the laws of this ~~state~~ State or any other state, by filling out and signing a Voluntary Acknowledgement of Parentage form and filing the completed and witnessed form with the ~~department of health~~ Department of Health; or

(3) the probability that the alleged parent is the biological parent exceeds 98 percent as established by a scientifically reliable genetic test; or

(4) the child is born while the ~~husband and wife~~ alleged parents are legally married to each other.

Sec. 4. AGENCY OF HUMAN SERVICES REPORT ON VOLUNTARY ACKNOWLEDGEMENT OF PARENTAGE

On or before January 15, 2015, the Secretary of Human Services, after consultation with the court administrator, shall submit to the Senate Committee on Health and Welfare and the House Committee on Human Services a report addressing whether and how the voluntary acknowledgement of parentage process should be amended to allow persons who are not the biological parent

of a child to assume parental rights and responsibilities of a child through completion of a voluntary acknowledgement of parentage form. The report shall include:

(1) a proposal for amending the voluntary acknowledgement of parentage process, including the acknowledgement form, to allow nonbiological parents to assume parental rights;

(2) a proposal for notifying a biological parent of the birth of a child when a voluntary acknowledgement of parentage form has been submitted by a nonbiological parent and the biological parent has a due process right to notification, including notice to the biological parents of any rights to assert parentage or parental rights; and

(3) a summary of whether voluntary acknowledgement of parentage by a nonbiological parent will be legally recognized in other jurisdictions, including by federal government assistance programs.

Sec. 5. DEPARTMENT OF HEALTH REPORT; CERTIFIED COPIES OF BIRTH AND DEATH RECORDS

On or before January 15, 2015, the Commissioner of Health shall submit to the House and Senate Committees on Judiciary and the House and Senate Committees on Government Operations recommended requirements for the issuance of certified birth and death certificates in the State in a manner that complies with the generally accepted, national standards for the issuance of

certified copies of birth and death certificates and that reduces the potential for identity theft. The recommendations shall include:

(1) persons to whom a certified birth or death certificate may be issued;

(2) application requirements for a birth or death certificate;

(3) requirements for the custodians of certified birth or death certificates;

(4) proposed legislative changes necessary to implement any recommendation; and

(5) any other information that the Commissioner determines is relevant.

Sec. 6. EFFECTIVE DATE

This act shall take effect on July 1, 2014.