



WISCONSIN LEGISLATIVE COUNCIL AMENDMENT MEMO

2011 Senate Bill 544

Senate Amendment 1

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CURRENT LAW REGARDING NAME CHANGES

Third Class Publication

Under current law, a person (petitioner) who wishes to change his or her name may petition to the circuit court in the county where he or she resides for the name change. One of the various requirements is that the petitioner must publish a third class notice of this petition. A third class notice requires that the petition for the name change be published for three consecutive weeks in a local newspaper prior to the court's hearing date.

Notification Regarding the Name Change

Register of Deeds

To make sure the appropriate changes to the petitioner's name are made, the register of deeds must be informed of the change. After the court grants the person's name change, the order for the name change is entered into the court's records and a certified copy of the record must be recorded in the register of deeds office.

Notification to State Registrar

If the petitioner was born or married in Wisconsin, the clerk of court must also send to the State Registrar of Vital Statistics (State Registrar) an abstract of the change so that the records kept by the State Registrar can be amended to reflect the name change. Upon making the name change to the birth record, marriage record, or both, the State Registrar then directs the register of deeds and the local registrar to amend their records as well.

THE BILL

Exemption From Third Class Publication Requirement and Confidentiality

The bill exempts from the name change publication requirement a person who demonstrates by a preponderance of the evidence and the court finds that both of the following apply:

- The publication of the petition for a name change could endanger the petitioner.
- The petitioner is not petitioning for a name change as an attempt to avoid a debt or conceal a criminal record.

If the court determines that publication of the petition for name change is not required, then all of the records related to the name change are confidential and exempt from the Open Records Law. However, a court may order, upon good cause shown, that a person may be allowed to inspect a confidential birth record or marriage record if the court determines that the safety of the petitioner is not jeopardized.

Notification of the Name Change

Register of Deeds

The court must forward to the register of deeds a form that states the petitioner's former name and that the new name is confidential.

Notification to the State Registrar

If the person was born or married in Wisconsin, then the clerk of court must send the State Registrar an abstract of the change so that the records kept by the State Registrar can be amended to reflect the name change. The State Registrar must then correct the birth record, marriage record, or both, and transmit to the register of deeds and the local registrar a form that states the petitioner's former name and states that the new name is confidential.

SENATE AMENDMENT 1

Confidentiality

Senate Amendment 1 clarifies what it means for the new name to be confidential. The amendment states that a person, who would otherwise have a "direct and tangible interest" in obtaining information from the State Registrar, may not do so if the information is confidential and must first obtain a court order granting access.¹

¹ Section 69.20 (1), Stats., defines a person with a direct and tangible interest to be any of the following: (a) the registrant of the vital record; (b) a member of the registrant's immediate family; (c) the parent of a registrant, unless the parent is a birth parent whose parental rights have been terminated; (d) the registrant's legal custodians or guardians; (e) a representative authorized by any person listed in (a) through (d), above; and (f) any other person who demonstrates a direct and tangible interest when information is necessary for the determination or protection of a personal or property right.

Notification of the Name Change

Register of Deeds

Senate Amendment 1 clarifies that the register of deeds may not disclose the confidential new name, except pursuant to a court order.

State Registrar

Senate Amendment 1 makes the following changes as it relates to the State Registrar:

- Directs the State Registrar to only correct the birth record, and not the marriage record, in petitions where the name change is to be kept confidential.
- Removes the requirement that the State Registrar send the register of deeds and the local registrar a form stating the petitioner's former name and stating that the new name is confidential.
- Requires the State Registrar, at the time of the court's order of the confidential name change, to issue to the petitioner the number of requested certified copies of the corrected birth record, upon payment of the certified copy fee required by statute.²

LEGISLATIVE HISTORY

Senate Bill 544 was introduced on March 5, 2012, by Senator Harsdorf and others. On March 7, 2012, Senator Harsdorf introduced the amendment. On March 9, 2012, the Senate Committee on Labor, Public Safety, and Urban Affairs adopted the amendment and recommended passage of the bill, as amended, on votes of Ayes, 5; Noes, 0.

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² Under s. 69.22 (1) (c), Stats, the fee is \$20 for the first certified copy of a birth record, and \$3 for each additional certified copy issued at the same time.