

1999 SENATE BILL 15

January 26, 1999 – Introduced by Senators WIRCH, ROESSLER, FARROW, FITZGERALD and HUELSMAN, cosponsored by Representatives FOTI, LADWIG, BOCK, DUFF, LA FAVE, HANDRICK, J. LEHMAN, M. LEHMAN, SINICKI, HOVEN, STONE, SUDER, VRAKAS, WARD, STASKUNAS and CULLEN. Referred to Committee on Judiciary and Consumer Affairs.

1 **AN ACT** *to renumber and amend* 786.36 and 786.37; and *to create* 786.36 (2)
2 (b), 786.36 (2) (c) and 786.37 (2) of the statutes; **relating to:** changing the name
3 of a minor.

Analysis by the Legislative Reference Bureau

Under current law, a resident of this state, in order to change his or her name, must petition the circuit court for an order changing his or her name. Currently, if the person whose name is to be changed is a minor under 14 years of age, both parents of the minor, if living, must file the petition. Currently, before applying to the court for a name change, the petitioner must publish a legal notice of the application once each week for three consecutive weeks in a newspaper that is likely to give notice to persons affected by the name change.

This bill permits one parent to petition for the name change of a minor under 14 years of age who has two living parents if the petitioning parent, in addition to filing proof of publication of the notice as required under current law, also files proof that the petitioning parent served a copy of the notice and petition on the nonpetitioning parent or, if with reasonable diligence the nonpetitioning parent cannot be served, mailed a copy of the notice and petition to the last-known address of the nonpetitioning parent, if that address can be obtained with reasonable diligence, and files an affidavit showing that the petitioning parent has made a reasonable attempt to provide notice to the nonpetitioning parent, but with reasonable diligence the nonpetitioning parent cannot be found or provided with notice. The court may order the name change if the nonpetitioning parent does not

SENATE BILL 15

appear at the hearing or otherwise answer the petition. If the nonpetitioning parent does appear at the hearing or answer the petition and shows that he or she has not abandoned the minor or failed to assume parental responsibility for the minor, the court may order the name change only on the consent of the nonpetitioning parent.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 786.36 of the statutes is renumbered 786.36 (1) and amended to
2 read:

3 **786.36 (1)** Any resident of this state, whether a minor or adult, may upon
4 petition to the circuit court of the county where he or she resides and upon filing a
5 copy of the notice, with proof of publication, as required by s. 786.37 (1), if no
6 sufficient cause is shown to the contrary, have his or her name changed or established
7 by order of the court. If

8 **(2) (a)** Subject to par. (b), if the person whose name is to be changed is a minor
9 under the age of 14 years, the petition may be made by: both parents, if living, or the
10 survivor of them; the guardian or person having legal custody of the minor, if both
11 parents are dead or if the parental rights of both parents have been terminated by
12 judicial proceedings; or the mother, if the minor is a nonmarital child who is not
13 adopted or whose parents do not subsequently intermarry under s. 767.60, except
14 that, if the paternity of the minor has been established, the father must also make
15 the petition unless his parental rights have been legally terminated.

16 **(3)** The order shall be entered at length upon the records of the court and a
17 certified copy of the record shall be recorded in the office of the register of deeds of
18 the county, who shall make an entry in a book to be kept by the register. The fee for
19 recording a certified copy is the fee specified under s. 59.43 (2) (ag). If the person
20 whose name is changed or established was born or married in this state, the clerk

SENATE BILL 15

1 of the court shall send to the state registrar of vital statistics, on a form designed by
2 the state registrar of vital statistics, an abstract of the record, duly certified,
3 accompanied by the fee prescribed in s. 69.22, which fee the clerk of court shall charge
4 to and collect from the petitioner. The state registrar of vital statistics shall then
5 correct the birth record, marriage record or both, and direct the register of deeds and
6 local registrar to make similar corrections on their records.

7 **(4)** No person engaged in the practice of any profession for which a license is
8 required by the state may change his or her given name or his or her surname to any
9 other given name or any other surname than that under which the person was
10 originally licensed in the profession in this or any other state, in any instance in
11 which the state board or commission for the particular profession, after a hearing,
12 finds that practicing under the changed name operates to unfairly compete with
13 another practitioner or misleads the public as to identity or otherwise results in
14 detriment to the profession or the public. This prohibition against a change of name
15 by a person engaged in the practice of any profession does not apply to any person
16 legally qualified to teach in the public schools in this state, nor to a change of name
17 resulting from marriage or divorce, nor to members of any profession for which there
18 exists no state board or commission authorized to issue licenses or pass upon the
19 qualifications of applicants or hear complaints respecting the conduct of members of
20 the profession.

21 **(5)** Any change of name other than as authorized by law is void.

22 **SECTION 2.** 786.36 (2) (b) of the statutes is created to read:

23 786.36 **(2)** (b) Notwithstanding par. (a), the name of a minor under 14 years of
24 age who has 2 living parents may be changed on the petition of one parent if, in
25 addition to filing a copy of the notice, with proof of publication, as required by s.

SENATE BILL 15

1 786.37 (1), the petitioning parent files proof of personal service, substituted service
2 or mailing, as required by s. 786.37 (2), and an affidavit showing that the petitioning
3 parent has made a reasonable attempt to provide notice to the nonpetitioning parent,
4 but with reasonable diligence the nonpetitioning parent cannot be found or provided
5 with notice, and if the nonpetitioning parent does not appear at the hearing on the
6 petition or otherwise answer the petition.

7 **SECTION 3.** 786.36 (2) (c) of the statutes is created to read:

8 786.36 (2) (c) If the nonpetitioning parent appears at the hearing on the
9 petition or otherwise answers the petition and shows that he or she has not
10 abandoned the minor, as described in s. 48.415 (1) (a) 3., (b) and (c) or failed to assume
11 parental responsibility for the minor, as described in s. 48.415 (6), the court shall
12 require the consent of the nonpetitioning parent before changing the name of the
13 minor.

14 **SECTION 4.** 786.37 of the statutes is renumbered 786.37 (1) and amended to
15 read:

16 786.37 (1) Before ~~applying to~~ petitioning the court for ~~changing or establishing~~
17 to change or establish a name, the ~~applicant~~ petitioner shall publish a class 3 notice
18 under ch. 985 stating the nature of the ~~application~~ petition and when and where the
19 application petition will be made heard.

20 **(3)** This section does not apply to the name change of a minor if the parental
21 rights to the minor of both parents have been terminated ~~and~~, guardianship and
22 legal custody of the minor have been transferred under subch. VIII of ch. 48, ~~and~~ the
23 minor has been placed in a permanent foster home or a permanent treatment foster
24 home, ~~where~~ and the guardian and legal custodian of the minor have petitioned to

SENATE BILL 15

1 change the minor's name to the name or names of the minor's foster parents or
2 treatment foster parents.

3 **SECTION 5.** 786.37 (2) of the statutes is created to read:

4 786.37 (2) If the petition is for the change of name of a minor under 14 years
5 of age who has 2 living parents and if the petition is being made by one parent of the
6 minor, the petitioner shall, in addition to publishing the notice under sub. (1), serve
7 a copy of the notice and petition on the nonpetitioning parent in the same manner
8 as a summons is served under s. 801.11 (1) (a) or (b) or, if with reasonable diligence
9 the nonpetitioning parent cannot be served in that manner, mail a copy of the notice
10 and petition to the last-known address of the nonpetitioning parent at or
11 immediately prior to the time of the first publication under sub. (1), if that address
12 can be ascertained with reasonable diligence.

13 **SECTION 6. Initial applicability.**

14 (1) This act first applies to petitions for name changes that are filed on the
15 effective date of this subsection.

16 (END)