

*Assembly*

**Committee Report**

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The committee on **Children and Families**, reports and recommends:

**Assembly Bill 62**

Relating to: changing the name of a minor.

By Representatives Foti, Ladwig, Bock, Duff, La Fave, Handrick, J. Lehman, M. Lehman, Sinicki, Hoven, Stone, Suder, Vrakas, Ward, Staskunas and Cullen; cosponsored by Senators Wirch, Roessler, Farrow, Fitzgerald and Huelsman.

PASSAGE RECOMMENDED, Ayes 10, Noes 0, Absent 0

Ayes: (10) Representatives Ladwig, Jeskewitz, Kreibich, Freese, Ward, Kestell, Miller, Coggs, Colon and Sinicki.

Noes: (0) None.

Absent: (0) None.

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Representative Bonnie Ladwig  
Chair

## Assembly

### Record of Committee Proceedings

#### Committee on Children and Families

##### Assembly Bill 62

Relating to: changing the name of a minor.

By Representatives Foti, Ladwig, Bock, Duff, La Fave, Handrick, J. Lehman, M. Lehman, Sinicki, Hoven, Stone, Suder, Vrakas, Ward, Staskunas and Cullen; cosponsored by Senators Wirch, Roessler, Farrow, Fitzgerald and Huelsman.

January 21, 1999      Referred to committee on Children and Families.

January 21, 1999      **PUBLIC HEARING HELD**

Present:    (10)    Representatives Ladwig, Jeskewitz, Kreibich,  
Freese, Ward, Kestell, Miller, Coggs, Colon  
and Sinicki.

Absent:    (0)    None.

##### Appearances for

- Michael Heifetz, Rep. Steve Foti's office

##### Appearances against

- None.

##### Appearances for Information Only

- None.

##### Registrations for

- Senator Robert Wirch
- J. Denis Moran, Director of State Courts and Legislative Committee of Judicial Conference

##### Registrations against

- None.

January 21, 1999      **EXECUTIVE SESSION**

Present:    (10)    Representatives Ladwig, Jeskewitz, Kreibich,  
Freese, Ward, Kestell, Miller, Coggs, Colon  
and Sinicki.

Absent:    (0)    None.

Moved by Representative Freese, seconded by Representative Jeskewitz, that **Assembly Bill 62** be recommended for passage.

Ayes: (10) Representatives Ladwig, Jeskewitz, Kreibich, Freese, Ward, Kestell, Miller, Coggs, Colon and Sinicki.

Noes: (0) None.

Absent: (0) None.

PASSAGE RECOMMENDED, Ayes 10, Noes 0, Absent 0

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Janine Stippich  
Committee Clerk

*Assembly*

## **COMMITTEE HEARINGS**

### **Committee on Children and Families**

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The committee will hold a public hearing on the following items at the time specified below:

LRB 1029/1 relating to changing the name of a minor  
(1997 Assembly Bill 167)

Thursday, January 21, 1999  
9:00 a.m.  
328 Northwest

**ADVANCE NOTICE**

**AN EXECUTIVE SESSION MAY BE HELD ON LRB 1029/1**

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Representative Bonnie Ladwig  
Chair

*Assembly*

**COMMITTEE HEARINGS**

**Committee on Children and Families**

**AMENDED NOTICE**

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*Assembly*

## COMMITTEE HEARINGS

### Committee on Children and Families

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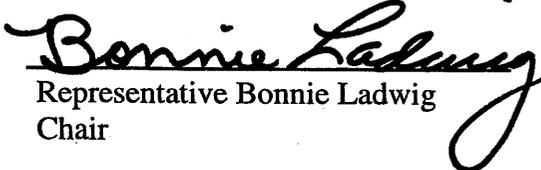
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*Assembly*

**COMMITTEE HEARINGS**

**Committee on Children and Families**

**AMENDED NOTICE**

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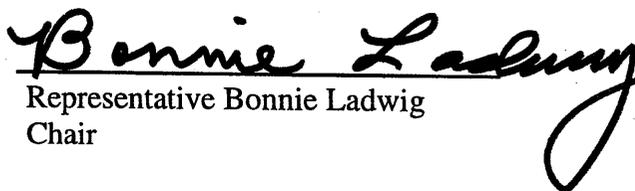
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**ADVANCE NOTICE**

**AN EXECUTIVE SESSION MAY BE HELD ON AB 62**

  
Representative Bonnie Ladwig  
Chair



1999 BILL

62

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.

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*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

**BILL**

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.

**BILL**

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:

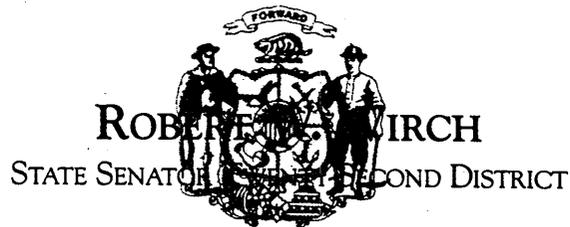
4 786.37 (2) If the petition is for the change of name of a minor under 14 years  
5 of age who has 2 living parents and if the petition is being made by one parent of the  
6 minor, the petitioner shall, in addition to publishing the notice under sub. (1), serve  
7 a copy of the notice and petition 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)



Assembly Bill 62  
Changing the Name of a Minor  
Testimony for the Assembly Committee on Children and Families  
January 21, 1999

I will be introducing a Senate companion bill to Assembly Bill 62.

Under current law, both parents of a child must petition for a name change unless the rights of one parent have been terminated. This bill allows a single parent to change the name of a minor under the age of 14 with greater ease than under current law. A judge has no discretion in ordering the name change unless both parents file the petition, even if one parent has clearly abandoned the child.

I have offered my assistance to Representative Foti in correcting this matter. Apparently judges are often presented with this dilemma. The normal process is to initiate a Termination of Parental Rights proceeding (TPR), but this is often a costly and time-consuming process which discourages many parents from pursuing this option. Representative Foti informed me of a situation he encountered where a mother did not know the whereabouts of the father and had no contact with him for a considerable length of time, but current law did not allow the judge to grant the name change.

I believe it is appropriate to allow a single parent to change the child's name if the other parent has effectively abandoned the child and cannot be found. The legislation we have drafted provides that a name change can only be granted if every avenue has been pursued to locate the other parent. Therefore, we are proposing this legislation to do the following:

- Allow a single parent to petition for a name change if he or she shows proof that an attempt has been made by mail and by published notice to inform the absent parent of the petition.
- Require the parent petitioning for the name change to provide an affidavit showing that a reasonable attempt was made to locate the absent parent.
- Provide for judicial discretion to grant the name change if the absent parent does not appear to answer the petition.

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Home: 3007 Springbrook Road, Kenosha, Wisconsin 53142 • (414) 694-7379

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Name Change of a Minor  
January 21, 1999

- If the absent parent appears at the hearing or otherwise answers the petition, the court shall not grant the name change unless the responding parent agrees.

This bill allows a name change only if the parent has reasonably tried to locate the other parent. The absent parent is given the opportunity to participate in this decision if he or she so desires, thereby preserving the rights of both parents.

Last session, this same legislation (AB 167) passed this committee on a unanimous vote of 8-0 before passing the Assembly on a voice vote. The Senate Committee on Judiciary, Campaign Finance Reform and Consumer Affairs passed the bill on a 4-0 vote. The session then ended before final passage in the Senate. This legislation has strong bipartisan support, as well as the endorsement of judges. I urge your support of this legislation.

## COUNTY OF WAUKESHA

PATRICK L. SNYDER  
Judge

MARY K. WARD  
Court Reporter



CHAMBERS OF  
CIRCUIT COURT BRANCH 4  
515 W. Moreland Boulevard  
P.O. Box 1627  
Waukesha, WI 53188-1627

January 20, 1999

Rep. Bonnie Ladwig, Chairperson  
Committee on Children and Family

Re: LRB-1029 Legislation to Revise Section 786.36 STATS.  
relating to change of name of minor

Dear Chair and Committee Members:

I urge you to support the above legislation. Currently, we often see a petition filed by a mother to change the name of a minor under the age of 14 when the father has abandoned the family and, in most cases, the father's whereabouts are unknown. This legislation, if passed, would allow the court to proceed after notice to the father, and grant the change, if appropriate, if the father fails to respond. This, in my opinion, is a very worthy change in the statutes.

Your committee may also wish to recommend legislation to clarify that the right of notice and/or approval of the other parent applies to cases where there has been adjudication of paternity. I have held that the statute does not apply to cases where there has not been an adjudication of paternity. A sample decision is enclosed. I do not believe that this issue has ever been addressed by the Appellate Court nor can I state with certainty that that was the legislative intent. Clarification would assist us.

Thank you for your consideration.

Sincerely,

Patrick L. Snyder  
Circuit Judge, Branch 4

encl.

cc: Rep. Steven Foti

STATE OF WISCONSIN

CIRCUIT COURT  
BRANCH 4

WAUKESHA COUNTY

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In the Matter of a Change of Name for:

William Boyd Mead

DECISION  
Case #98-CV-2454

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Sarah A. Davies, mother of William Boyd Mead, a minor under the age of 14, has petitioned for a change of name for William to William Mead Davies. William was born to Sarah out-of-wedlock. Sarah requests the last name of Davies to conform to her current and birthname. There has never been an adjudication of paternity.

William's birth certificate has the last name of Mead; Sarah testifying that is the name of the biological father, a person whose whereabouts is presently known to Sarah. The biological father has apparently admitted paternity to Sarah and has, in fact, assisted in the support of William. There is, however, no current order for support, nor is there any petition pending to establish paternity. In addition, no male person has ever filed a "declaration of interest" in William pursuant to Sec. 48.025 Stats.

Sarah commenced this action by filing the petition in this court and has published the notice and the date of the hearing in The Freeman, a daily newspaper printed and published in the city and county of Waukesha, the place of Sarah and William's residence.

Sarah did not give actual notice of the hearing to the biological father. In testimony, Sarah indicated that her discussions with the biological father as to this request did not indicate his approval thereof.

The court took under advisement the issue of whether or not a biological father, without an adjudication of paternity is entitled to be recognized as a "father" under Sec. 78~~6~~.36 Stats.

This court concludes that the term "father" means an adjudicated father and not any male who might be the father. As such, the biological father is not required to be noticed of this petition nor is it necessary he join herein.

Sarah, an unwed mother of William for whom paternity has not been established, has the unilateral right to seek and obtain this name change. This court concludes that the legislative intent of the statute contemplated an adjudicated father.

Many other sections of the statutes which address a male that might be the father of a child do not use the term "father." The statutes relating to termination of paternal rights requires the process to be served upon "a person" alleged to be the father or upon "a person" whom has filed a declaration of paternal interest under Sec. 48.025. One whom is believed to be the father or believes himself to be the father is not legally a father. That status must be established through the statutory legal proceedings.

Paternity statutes likewise do not state that a "father" may bring the action, rather it states a "man presumed to be the father" or "a man alleged or alleging himself to be the father" may bring the action.

There is no presumption of paternity regarding a child such as William. Unless and until fatherhood is legally established, William has a biological father but not a legal father. To do

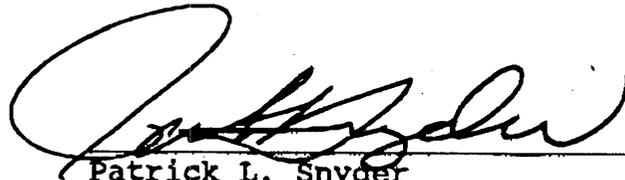
otherwise, would accord the biological father a "father" status without any court having adjudicated him to be so.

This court is well aware that fathers of nonmarital children have important rights. Those rights, however, can only be protected by first establishing the "father" status. Only then in this case, would the biological father have a voice in or the right to veto Sarah's request as William's mother to change his name.

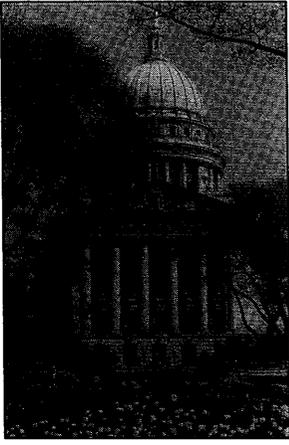
In conjunction with this decision and bearing the same date thereon, I execute the order changing the name of William Boyd Mead to William Mead Davies.

Dated at Waukesha, Wisconsin this 5 day of January, 1999.

BY THE COURT:



Patrick L. Snyder  
Circuit Court Judge



REPRESENTATIVE  
S T E V E N  
**FOTI**  
ASSEMBLY  
MAJORITY LEADER

## Changing the Name of a Minor

Testimony before the Assembly Committee on Children and Families  
January 21, 1999

Chairperson Ladwig and members of the committee, thank you for the opportunity to testify this morning on this proposal.

This bill allows a single parent to change the name of a minor under the age of 14 with greater ease than under current law. Currently, both parents must petition for a name change unless the rights of one parent have been legally terminated. A judge has no discretion in ordering the name change unless both parents file the petition, even if one parent has clearly abandoned the child.

This legislation was prompted by a case I observed while shadowing Judge Patrick Snyder of Waukesha County Circuit Court for a day during the summer of 1997. A woman appeared before him asking permission to change her child's last name. Although she did not know the whereabouts of the father and had no contact with him for a considerable length of time, current law did not allow Judge Snyder to grant the name change.

According to Judge Snyder, this situation arises frequently. In the situation described, the first step towards changing the child's last name is initiating a Termination of Parental Rights proceeding (TPR). However, because this is often a costly and time-consuming process, many parents are discouraged from pursuing this option.

I believe it is appropriate to allow a single parent to change the child's name if the other parent has effectively abandoned the child and cannot be found. Therefore, I am proposing this legislation to do the following:

- Allow a single parent to petition for a name change if he or she shows proof that an attempt has been made by mail and by published notice to inform the absent parent of the petition.
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(414) 567-5324

Name Change of a Minor  
January 21, 1999

- If the absent parent appears at the hearing or otherwise answers the petition, the court shall not grant the name change unless the responding parent agrees.

With these safeguards, the bill allows a single parent to petition for a name change while providing the absent parent the opportunity to participate in this decision if he or she so desires. Therefore, the rights of both parents are preserved.

Last session, this same legislation (AB 167) passed this committee on a unanimous vote of 8-0 before passing the Assembly on a voice vote. The Senate Committee on Judiciary, Campaign Finance Reform and Consumer Affairs passed the bill on a 4-0 vote. The session then ended before final passage in the Senate. This legislation has strong bipartisan support, as well as the endorsement of judges. I urge your support of this legislation.

Thank you.