

2003 Assembly Bill 59

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2003 WISCONSIN ACT 52

AN ACT *to amend* 69.11 (4) (b), 69.12 (1), 69.15 (4) (b), 767.20 and 786.36 (1) (intro.); and *to create* 301.47 of the statutes; **relating to:** name changes and names used by sex offenders and providing penalties.

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

SECTION 1. 69.11 (4) (b) of the statutes is amended to read:

69.11 (4) (b) The state registrar may amend an item on a birth certificate that affects information about the name, sex, date of birth, place of birth, parent's name, or marital status of the mother if 365 days have elapsed since the occurrence of the event that is the subject of the birth certificate, if the amendment is at the request of a person with a direct and tangible interest in the record and is on a request form supplied by the state registrar, and if the amendment is accompanied by 2 items of documentary evidence from early childhood that are sufficient to prove that the item to be changed is in error and by the affidavit of the person requesting the amendment. A change in the marital status on the birth certificate may be made under this paragraph only if the marital status is inconsistent with information concerning the father or husband that appears on the birth certificate. This paragraph may not be used to add to or delete from a birth certificate the name of a parent or, to change the identity of a parent named on the birth certificate, or to effect a name change prohibited under s. 301.47.

SECTION 2. 69.12 (1) of the statutes is amended to read:

69.12 (1) If the state registrar cannot make an amendment to a vital record under s. 69.11 and a person with a direct and tangible interest in the vital record alleges that information on the vital record does not represent the actual facts in effect at the time the record was filed, the person may petition the circuit court of the county in which the event which is the subject of the vital record is alleged to have occurred. The petition shall be accompanied by a certified copy of the original vital record. If the court finds that the petitioner has established the actual facts of the event in effect when the record was filed, the clerk of court shall report the court's determination to the state registrar on a form prescribed by the state registrar, along with the fee required under s. 69.22 (5) (a) 2. Upon receipt of the report, the state registrar shall, if information as to the cause of death on the original certificate of death is changed, act under sub. (4), or shall change the record under s. 69.11 (5) and send a notice of the change to the local registrar who shall make the change in the record filed in his or her office. This subsection does not apply to a name change prohibited under s. 301.47.

SECTION 3. 69.15 (4) (b) of the statutes is amended to read:

69.15 (4) (b) Any person with a direct and tangible interest in a birth certificate registered in this state may petition a court to change the name and sex of the registrant on the certificate due to a surgical sex-change procedure. If the state registrar receives an order which pro-

* Section 991.11, WISCONSIN STATUTES 2001-02 : Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated" by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

vides for such a change the state registrar shall change the name and sex on the original certificate, except that if the court orders the state registrar to prepare a new certificate the state registrar shall prepare a new certificate under sub. (6). This subsection does not apply to a name change prohibited under s. 301.47.

SECTION 4. 301.47 of the statutes is created to read:

301.47 Sex offender name changes prohibited. (1)

In this section, "sex offender" means a person who is subject to s. 301.45 (1g) but does not include a person who, as a result of a proceeding under s. 301.45 (1m), is not required to comply with the reporting requirements of s. 301.45.

(2) A sex offender may not do any of the following before he or she is released, under s. 301.45 (5) or (5m), from the reporting requirements of s. 301.45:

1. Change his or her name.

2. Identify himself or herself by a name unless the name is one by which the person is identified with the department.

(3) Whoever intentionally violates sub. (2) is subject to the following penalties:

(a) Except as provided in par. (b), the person is guilty of a Class H felony.

(b) The person may be fined not more than \$10,000 or imprisoned for not more than 9 months or both if all of the following apply:

1. The person was ordered under s. 51.20 (13) (ct) 1m., 938.34 (15m) (am), 938.345 (3), 971.17 (1m) (b) 1m., or 973.048 (1m) to comply with the reporting

requirements under s. 301.45 based on a finding that he or she committed or solicited, conspired, or attempted to commit a misdemeanor.

2. The person was not convicted of another offense under this section before committing the present violation.

(4) The department shall make a reasonable attempt to notify each person required to comply with the reporting requirements under s. 301.45 of the prohibition in sub. (2), but neither the department's failure to make such an attempt nor the department's failure to notify a person of that prohibition is a defense to a prosecution under this section.

SECTION 5. 767.20 of the statutes is amended to read:

767.20 Name of spouse. The Except as provided in s. 301.47, the court, upon granting a divorce, shall allow either spouse, upon request, to resume a former legal surname, if any.

SECTION 6. 786.36 (1) (intro.) of the statutes is amended to read:

786.36 (1) (intro.) Any Except as provided in sub. (3) or s. 301.47, any resident of this state, whether a minor or adult, may upon petition to the circuit court of the county where he or she resides and upon filing a copy of the notice, with proof of publication, as required by s. 786.37, if no sufficient cause is shown to the contrary, have his or her name changed or established by order of the court. If the person whose name is to be changed is a minor under the age of 14 years, the petition may be made by whichever of the following is applicable: