

2003 ASSEMBLY BILL 59

February 13, 2003 – Introduced by Representatives GUNDRUM, GRONEMUS, ZIEGELBAUER, GUNDERSON, LADWIG, GROTHMAN, GIELOW, ALBERS, KRAWCZYK, STONE, HINES, MUSSER, STASKUNAS, OLSEN, PLOUFF, TOWNSEND, NISCHKE, LASSA, WASSERMAN, HUEBSCH, PETTIS, J. FITZGERALD, SUDER, JESKEWITZ, VAN ROY, FREESE, VRAKAS and COGGS, cosponsored by Senators DARLING, HARSDORF, REYNOLDS, LAZICH, KEDZIE, STEPP, ROESSLER, KANAVAS, HANSEN and LEIBHAM. Referred to Committee on Judiciary.

1 **AN ACT** *to amend* 69.11 (4) (b), 69.12 (1), 69.15 (4) (b), 301.45 (6) (ag), 767.20 and
2 786.36 (1) (intro.); and *to create* 301.45 (4u) of the statutes; **relating to:** name
3 changes and names used by sex offenders and providing a penalty.

Analysis by the Legislative Reference Bureau

Under current law, a person may change his or her name by consistently and continuously using another name, by petitioning a court to have his or her name changed, or, after being granted a divorce, by asking the court to permit him or her to use a former surname. This bill prohibits a person required to register as a sex offender from changing his or her name or using a name other than one by which the person is identified with the Department of Corrections. This prohibition also applies to a person who has been found to have committed a sex offense for which registration will be, but is not yet, required. A person who violates this prohibition may be fined not more than \$10,000 or imprisoned for not more than nine months or both.

Because this bill creates a new crime or revises a penalty for an existing crime, the Joint Review Committee on Criminal Penalties may be requested to prepare a report concerning the proposed penalty and the costs or savings that are likely to result if the bill is enacted.

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For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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

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

2 69.11 **(4)** (b) The state registrar may amend an item on a birth certificate that
3 affects information about the name, sex, date of birth, place of birth, parent's name,
4 or marital status of the mother if 365 days have elapsed since the occurrence of the
5 event that is the subject of the birth certificate, if the amendment is at the request
6 of a person with a direct and tangible interest in the record and is on a request form
7 supplied by the state registrar, and if the amendment is accompanied by 2 items of
8 documentary evidence from early childhood that are sufficient to prove that the item
9 to be changed is in error and by the affidavit of the person requesting the
10 amendment. A change in the marital status on the birth certificate may be made
11 under this paragraph only if the marital status is inconsistent with information
12 concerning the father or husband that appears on the birth certificate. This
13 paragraph may not be used to add to or delete from a birth certificate the name of a
14 parent ~~or~~ to change the identity of a parent named on the birth certificate, or to effect
15 a name change prohibited under s. 301.45 (4u).

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

17 69.12 **(1)** If the state registrar cannot make an amendment to a vital record
18 under s. 69.11 and a person with a direct and tangible interest in the vital record
19 alleges that information on the vital record does not represent the actual facts in
20 effect at the time the record was filed, the person may petition the circuit court of the
21 county in which the event which is the subject of the vital record is alleged to have

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1 occurred. The petition shall be accompanied by a certified copy of the original vital
2 record. If the court finds that the petitioner has established the actual facts of the
3 event in effect when the record was filed, the clerk of court shall report the court's
4 determination to the state registrar on a form prescribed by the state registrar, along
5 with the fee required under s. 69.22 (5) (a) 2. Upon receipt of the report, the state
6 registrar shall, if information as to the cause of death on the original certificate of
7 death is changed, act under sub. (4), or shall change the record under s. 69.11 (5) and
8 send a notice of the change to the local registrar who shall make the change in the
9 record filed in his or her office. This subsection does not apply to a name change
10 prohibited under s. 301.45 (4u).

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

12 69.15 (4) (b) Any person with a direct and tangible interest in a birth certificate
13 registered in this state may petition a court to change the name and sex of the
14 registrant on the certificate due to a surgical sex-change procedure. If the state
15 registrar receives an order which provides for such a change the state registrar shall
16 change the name and sex on the original certificate, except that if the court orders
17 the state registrar to prepare a new certificate the state registrar shall prepare a new
18 certificate under sub. (6). This subsection does not apply to a name change prohibited
19 under s. 301.45 (4u).

20 **SECTION 4.** 301.45 (4u) of the statutes is created to read:

21 301.45 (4u) NAME CHANGES PROHIBITED. (a) In this subsection, "sex offender"
22 means a person who is subject to sub. (1g) but does not include a person who, as a
23 result of a proceeding under sub. (1m), is not required to comply with the reporting
24 requirements of this section.

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

3 1. Change his or her name.

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

6 **SECTION 5.** 301.45 (6) (ag) of the statutes is amended to read:

7 301.45 (6) (ag) Whoever intentionally violates sub. (4r) or (4u) may be fined not
8 more than \$10,000 or imprisoned for not more than 9 months or both.

9 **SECTION 6.** 767.20 of the statutes is amended to read:

10 **767.20 Name of spouse.** The Except as provided in s. 301.45 (4u), the court,
11 upon granting a divorce, shall allow either spouse, upon request, to resume a former
12 legal surname, if any.

13 **SECTION 7.** 786.36 (1) (intro.) of the statutes is amended to read:

14 786.36 (1) (intro.) ~~Any~~ Except as provided in sub. (3) or s. 301.45 (4u), any
15 resident of this state, whether a minor or adult, may upon petition to the circuit court
16 of the county where he or she resides and upon filing a copy of the notice, with proof
17 of publication, as required by s. 786.37, if no sufficient cause is shown to the contrary,
18 have his or her name changed or established by order of the court. If the person
19 whose name is to be changed is a minor under the age of 14 years, the petition may
20 be made by whichever of the following is applicable:

21 (END)