

2003 Assembly Bill 52

Date of enactment: **November 5, 2003**
Date of publication*: **November 19, 2003**

2003 WISCONSIN ACT 65

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

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

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

786.36 (1) (intro.) 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~~ under s. 786.37 (1), with proof of publication, may, if no sufficient cause is shown to the contrary, have his or her name changed or established by order of the court. ~~If~~ Subject to sub. (1m), 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:

SECTION 2. 786.36 (1) (b) of the statutes is amended to read:

786.36 (1) (b) The guardian or person having legal custody of the minor, if both parents are dead or if the parental rights of both parents have been terminated by judicial proceedings.

SECTION 3. 786.36 (1) (c) of the statutes is amended to read:

786.36 (1) (c) The minor's mother, if the minor is a nonmarital child who is not adopted or whose parents do not subsequently intermarry under s. 767.60, ~~except that~~

~~the father must also make the petition unless his rights have been legally terminated and if paternity of the minor has not been established.~~

SECTION 4. 786.36 (1m) of the statutes is created to read:

786.36 (1m) (a) 1. Subject to subd. 2., the name of a minor under 14 years of age who has 2 living parents may be changed on the petition of one parent if, in addition to filing a copy of the notice required under s. 786.37 (1), with proof of publication, the petitioning parent files proof of service as required under s. 786.37 (2) and the nonpetitioning parent does not appear at the hearing on the petition or otherwise answer the petition.

2. If the nonpetitioning parent cannot be found or provided with notice, the name of a minor under 14 years or age who has 2 living parents may be changed on the petition of one parent if, in addition to meeting the filing requirements under subd. 1., the petitioning parent has made a reasonable attempt to find and provide notice to the nonpetitioning parent, but with reasonable diligence the nonpetitioning parent cannot be found or provided with notice, and the nonpetitioning parent does not appear at the hearing or otherwise answer the petition.

(b) If the nonpetitioning parent appears at the hearing on the petition or otherwise answers the petition and shows that he or she has not abandoned the minor, as described in s. 48.415 (1) (a) 3., (b), and (c), or failed to assume parental responsibility for the minor, as described

* 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].

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in s. 48.415 (6), the court shall require the consent of the nonpetitioning parent before changing the name of the minor.

SECTION 5. 786.37 (title) of the statutes is amended to read:

786.37 (title) Change of name, notice of application petition.

SECTION 6. 786.37 of the statutes is renumbered 786.37 (1) and amended to read:

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

(3) This section does not apply to the name change of a minor if the parental rights to the minor of both parents have been terminated ~~and~~, guardianship and legal custody of the minor have been transferred under subch.

VIII of ch. 48, ~~and~~ the minor has been placed in a permanent foster home or a permanent treatment foster home, ~~where~~ and the guardian and legal custodian of the minor have petitioned to change the minor's name to the name or names of the minor's foster parents or treatment foster parents.

SECTION 7. 786.37 (2) of the statutes is created to read:

786.37 (2) If the petition is for the name change of a minor under 14 years of age who has 2 living parents and if the petition is being made by one parent of the minor, the petitioner shall, in addition to publishing the notice under sub. (1), serve a copy of the notice and petition on the nonpetitioning parent in the same manner as a summons is served under s. 801.11 (1).

SECTION 8. Initial applicability.

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