

2011 DRAFTING REQUEST

Bill

Received: **08/25/2011**

Received By: **phurley**

Wanted: **As time permits**

Companion to LRB:

For: **Keith Ripp (608) 266-3404**

By/Representing: **Tyler**

May Contact:

Drafter: **phurley**

Subject: **Courts - miscellaneous**

Addl. Drafters:

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.Ripp@legis.wisconsin.gov**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Keeping name changes confidential

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?							
/P1	phurley 08/30/2011	mduchek 10/12/2011	rschluet 10/13/2011	_____	mbarman 10/13/2011		S&L
	phurley 10/19/2011	mduchek 10/20/2011		_____			
/P2			rschluet 10/20/2011	_____	lparisi 10/20/2011		S&L
/1	phurley 10/21/2011	wjackson 10/21/2011	jfrantze 10/21/2011	_____	lparisi 10/21/2011	sbasford 10/24/2011	

Vers. Drafted Reviewed Typed Proofed Submitted Jacketed Required

FE Sent For: *at intro*
11/17

<END>

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	phurley 10/19/2011	mduchek 10/20/2011		_____			
/P2		1 WJ 10/21	rschluet 10/20/2011	_____	lparisi 10/20/2011		

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JG 10/20

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Topic:

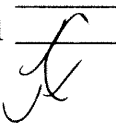
Keeping name changes confidential

Instructions:

See attached

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/?							
/P1	phurley 08/30/2011	mduchek 10/12/2011	rschlue 10/13/2011		mbarman 10/13/2011		

FE Sent For:

MD
1P2
10/20/11

rschlue
10/20/11

phurley

<END>

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/?	phurley	PI MD 9/8/11		ph L			
FE Sent For:		PI/WLJ 10/7/11		<END>			

Hurley, Peggy

From: Wenzlaff, Tyler
Sent: Thursday, August 25, 2011 11:37 AM
To: Hurley, Peggy
Subject: Rep. Ripp Draft Request
Peggy,

Per our conversation, the intent of the legislation is to allow a victim of domestic abuse to petition the court for an exemption to the statute requiring publication but allowing the judge final discretion on whether that is appropriate. The legislation would also seal the record of the name change but still allow a judge to unseal the record when good cause is shown.

Let me know you have any questions or if the procedures outlined don't make sense. Thanks.

Tyler Wenzlaff
Office of Wisconsin State Representative Keith Ripp
47th Assembly District

786.37 (4)

This section does not apply if the petitioner shows probable cause that his or her safety is at risk and the court is convinced that the petitioner is not seeking the name change for the purpose of avoiding a debt or concealing a criminal record.

Legislative Intent – This section directs the court to waive the publication requirement if the petitioner shows probable cause that his or her safety is at risk and the court is convinced that the petitioner is not seeking the name change for the purpose of avoiding a debt or concealing a criminal record.

786.36 (2m)

If the court waives notice of publication under s. 786.37 (4) and orders that name change:

- (a) The court shall seal order of the name change. The order shall be a permanent record of the court and only unsealed upon a showing of good cause and a showing that the petitioner's safety would not be jeopardized by release of the order to the person making the request.
- (b) The court shall transmit to the register of deeds a form stating the previous name and that the new name is confidential. The fee for recording the information is the fee specified under s. 59.43 (2) (ag). If the person whose name is changed or established was born or married in this state, the clerk of the court shall send to the state registrar of vital statistics, on a form designed by the state registrar of vital statistics, an abstract of the record, duly certified, accompanied by the fee prescribed in s. 69.22, which fee the clerk of court shall charge to and collect from the petitioner. The state registrar of vital statistics shall then correct the birth record, marriage record or both.

Legislative Intent -- This section directs the court to seal the record of the name change if the name change is granted and the court waived the publication requirement. Also, the current name change statute directs the court to send the record of the change to the state registrar, the local registrar and county register of deeds so that records held by those entities can be updated. Procedures currently in place at the state registrar's office prevent an individual who does not know the new name to access records that would reveal the new name. These procedures are not in place at all local offices. Therefore, the proposed changes allow the court to send record of the name change to the state registrar. The court would also send notice to the local register of deeds, but this notice would not contain the new name; it would only indicate the new name is confidential.

19.35
"kept confidential and in a sealed file"
see 791.10
see 910.22 (4)(a)
960.12(4)
language



State of Wisconsin
2011 - 2012 LEGISLATURE



LRB-2736/P1

PJH:j.....

ned

TWLj

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

Due
Thurs 10/13

8-30-11

XJR
SA

Gen

1 AN ACT relating to: keeping certain name changes confidential.

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be provided in a subsequent version of this draft.

plain

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

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

3 786.36 (2) The Except as provided in sub. (2m), the order shall be entered at length
4 upon the records of the court and a certified copy of the record shall be recorded in
5 the office of the register of deeds of the county, who shall make an entry in a book to
6 be kept by the register. The fee for recording a certified copy is the fee specified under
7 s. 59.43 (2) (ag). If the person whose name is changed or established was born or
8 married in this state, the clerk of the court shall send to the state registrar of vital
9 statistics, on a form designed by the state registrar of vital statistics, an abstract of

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

History: 1973 c. 263; 1977 c. 449; 1979 c. 32 ss. 63, 92 (14); 1979 c. 221; Stats. 1979 s. 786.36; 1981 c. 245; 1983 a. 447; 1985 a. 315 s. 22; 1993 a. 301; 1995 a. 201; 1999 a. 83; 2003 a. 52, 65, 326; 2005 a. 443 s. 265.

5 **SECTION 2.** 786.36 (2m) of the statutes is created to read:

6 786.36 (2m) (a) Except as provided in par. (b), if the court determines that,
 7 pursuant to s. 786.37 (4), publication of the petition is not required, all records
 8 related to the petitioner's name change shall be confidential and are exempt from
 9 disclosure under s. 19.35 (1). The court shall transmit to the register of deeds a form
 10 that states the petitioner's former name and states that the new name is confidential.
 11 The fee for recording a certified copy is the fee specified under s. 59.43 (2) (ag). If the
 12 person whose name is changed or established was born or married in this state, the
 13 clerk of the court shall send to the state registrar of vital statistics, on a form designed
 14 by the state registrar of vital statistics, an abstract of the record, duly certified,
 15 accompanied by the fee prescribed in s. 69.22, which fee the clerk of court shall charge
 16 to and collect from the petitioner. The state registrar of vital statistics shall then
 17 correct the birth record, marriage record or both, and direct the register of deeds and
 18 local registrar to make similar corrections on their records.

****NOTE: While records are generally available for public inspection, certain records are kept confidential and not available for public inspection; the concept of "sealing" records is not generally used in the statutes.

19 (b) The court may, upon good cause shown by a person and upon determining
 20 that the safety of the petitioner is not jeopardized, allow the person to inspect a record
 21 that is confidential under par. (a).

****NOTE: ^{Paragraph} (b) states that the court may, in its discretion, allow a person to inspect an otherwise confidential record. (This language doesn't make the record public)

Subsection (1)
Subsection (1)

but allows the court to determine, on a case to case basis, whether a particular person can have access to the record. Please let me know if this does not reflect your intent.

1 SECTION 3. 786.37 (4) of the statutes is created to read:

2 786.37 (4) This section does not apply if the petitioner shows, by a
3 preponderance of the evidence, that publication of his or her petition would endanger
4 him or her and that he or she is not seeking a name change in order to avoid a debt
5 or conceal a criminal record.

- Use 2x

could

****NOTE: This paragraph requires that the petitioner prove certain facts by a preponderance of the evidence. This is the customary evidentiary standard for civil matters.

****NOTE: This paragraph does not require a specific tie-in to domestic violence. Please let me know if you would like that changed.

6 SECTION 4. Initial applicability.

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

9 (END)

Hurley, Peggy

From: Wenzlaff, Tyler
Sent: Tuesday, October 18, 2011 4:07 PM
To: Hurley, Peggy
Subject: RE: Draft review: LRB 11-2736/P1 Topic: Keeping name changes confidential

Peggy,

Thanks. Yeah Rep. Ripp wants the state registrar's office to have both the former name and new name but we are concerned about local registrar's office. Rep. Ripp knows some of the local clerks so he can check with them if that's information that they need.

Tyler

From: Hurley, Peggy
Sent: Tuesday, October 18, 2011 3:59 PM
To: Wenzlaff, Tyler
Subject: RE: Draft review: LRB 11-2736/P1 Topic: Keeping name changes confidential

Hi Tyler,

That language was lifted from current law and follows the same procedure as regular, non-confidential name changes. I think it would make sense to send the information (if the person was born or married in this state) to the state registrar of information, but then have that office send to the register of deeds and the local registrar the person's former name and a statement that the new name is confidential. I do believe that the state registrar of information would have to have both the new and old names, but I can draft it so that the information held by the state registrar is confidential and not available to the public except under circumstances set forth in the draft.

I can make that change for you in a redraft, but you may want to have someone from the state registrar and/or a county register of deeds review that change in case there are reasons they would have to have the new name. I am not terribly familiar with the process of name changes or of recording vital information/statistics for the state, so it might be helpful to have someone who is more of an expert in those areas take a look.

Peggy

From: Wenzlaff, Tyler
Sent: Tuesday, October 18, 2011 3:36 PM
To: Hurley, Peggy
Subject: RE: Draft review: LRB 11-2736/P1 Topic: Keeping name changes confidential

Peggy,

I have a question about Page 2, line 19-20.

Do we have to notify the local registrar's office and register of deeds? Rep. Ripp has concerns that the local registrar's office cannot guarantee the confidentiality of the name change.

Instead of notifying the local registrar's office, could we just ask that the court transmit a form to the local registrar's office a form that states the petitioner's former name and states that the new name is confidential.

Thanks.

Tyler Wenzlaff
Office of Wisconsin State Representative Keith Ripp
47th Assembly District

10/18/2011

From: LRB.Legal
Sent: Thursday, October 13, 2011 8:48 AM
To: Rep.Ripp
Subject: Draft review: LRB 11-2736/P1 Topic: Keeping name changes confidential

Following is the PDF version of draft LRB 11-2736/P1.



State of Wisconsin
2011 - 2012 LEGISLATURE



LRB-2736/P1
PJH:med&wlj:rs

stays

P2

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

Insert analysis 11-19-11

Reger

1 AN ACT *to amend* 786.36 (2); and *to create* 786.36 (2m) and 786.37 (4) of the
2 statutes; **relating to:** keeping certain name changes confidential.

Analysis by the Legislative Reference Bureau

~~This is a preliminary draft. An analysis will be provided in a subsequent version of this draft.~~

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

3 SECTION 1. 786.36 (2) of the statutes is amended to read:
4 786.36 (2) The Except as provided in sub. (2m), the order shall be entered at
5 length upon the records of the court and a certified copy of the record shall be
6 recorded in the office of the register of deeds of the county, who shall make an entry
7 in a book to be kept by the register. The fee for recording a certified copy is the fee
8 specified under s. 59.43 (2) (ag). If the person whose name is changed or established
9 was born or married in this state, the clerk of the court shall send to the state

SECTION 1

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

7 SECTION 2. 786.36 (2m) of the statutes is created to read:

8 786.36 (2m) (a) Except as provided in par. (b), if the court determines that,
9 pursuant to s. 786.37 (4), publication of the petition is not required, all records
10 related to the petitioner's name change shall be confidential and are exempt from
11 disclosure under s. 19.35 (1). The court shall transmit to the register of deeds a form
12 that states the petitioner's former name and states that the new name is confidential.
13 The fee for recording a certified copy is the fee specified under s. 59.43 (2) (ag). If the
14 person whose name is changed or established was born or married in this state, the
15 clerk of the court shall send to the state registrar of vital statistics, on a form designed
16 by the state registrar of vital statistics, an abstract of the record, duly certified,
17 accompanied by the fee prescribed in s. 69.22, which fee the clerk of court shall charge
18 to and collect from the petitioner. The state registrar of vital statistics shall then
19 correct the birth record, marriage record, or both, and direct the register of deeds and
20 local registrar to make similar corrections on their records.

****NOTE: While records are generally available for public inspection, certain records are kept confidential and not available for public inspection; the concept of "sealing" records is not generally used in the statutes.

shall transmit to the register of deeds and the local registrar a form that states the petitioner's former name and states that the new name is confidential.

21 (b) The court may, upon good cause shown by a person and upon determining
22 that the safety of the petitioner is not jeopardized, allow the person to inspect a record
23 that is confidential under par. (a).

2011-2012 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2736/P1ins
PJH:med&wlj:rs

INSERT ANALYSIS:

(state registrar) Under current law, a person who wishes to change his or her name may petition the circuit court in the county *where* he or she resides for the name change. Current law requires publication in a newspaper of the person's petition for a name change. After the court grants the person's name change, the order for the name change is entered in the records of the court and a certified copy of the record is recorded in the office of the county register of deeds. If the person whose name was changed was born or married in *this* the state, records of the name change are forwarded to the state registrar of vital statistics, so that the records kept by *the state registrar* that office can be amended to reflect the name change. The state registrar directs the register of deeds and the local registrar to amend their records as well.

the Under this bill, ~~a circuit court may decline to order publication in a newspaper of the petition for a name change~~ if the person who wishes to change his or *her* name demonstrates to the court that publication of his or her petition could endanger him or her and that he or she is not seeking a name change in order to avoid a debt or conceal a criminal record. If the court declines to order publication for that reason, all records of the name change are confidential. Under the bill, the court that orders the name change forwards to the register of deeds a form that states the petitioner's former name and states that the new name is confidential. If the person whose name was changed was born or married in *the* ~~the~~ state, records of the name change are forwarded to the state registrar *the state registrar* of vital statistics so that the records kept by that office can be amended to reflect the name change, but the state registrar forwards to the register of deeds and the local registrar a form that states the petitioner's former name and states that the new name is confidential. Under the bill, records of an otherwise confidential name change may be inspected by a third person if the *that* person demonstrates to the court that there is good cause for the person to inspect the records and that the safety of the petitioner is not jeopardized.

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

determines that publication in a newspaper is not required

another person

a person who wishes to change his or her name is exempt from the requirement to publish the petition for a name change in a newspaper



State of Wisconsin
2011 - 2012 LEGISLATURE



LRB-2736/P2
PJH:med&wj:rs

stays
r mr

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

today

Reger

1 AN ACT to amend 786.36 (2); and to create 786.36 (2m) and 786.37 (4) of the
2 statutes; relating to: keeping certain name changes confidential.

Analysis by the Legislative Reference Bureau

Under current law, a person who wishes to change his or her name may petition the circuit court in the county where he or she resides for the name change. Current law requires publication in a newspaper of the person's petition for a name change. After the court grants the person's name change, the order for the name change is entered in the records of the court and a certified copy of the record is recorded in the office of the county register of deeds. If the person whose name was changed was born or married in this state, records of the name change are forwarded to the state registrar of vital statistics (state registrar) so that the records kept by the state registrar can be amended to reflect the name change. The state registrar directs the register of deeds and the local registrar to amend their records as well.

Under this bill, a person who wishes to change his or her name is exempt from the requirement to publish the petition for a name change in a newspaper if the person who wishes to change his or her name demonstrates to the court that publication of his or her petition could endanger him or her and that he or she is not seeking a name change in order to avoid a debt or conceal a criminal record. If the court determines that publication in a newspaper is not required for that reason, all records of the name change are confidential. Under the bill, the court that orders the name change forwards to the register of deeds a form that states the petitioner's former name and states that the new name is confidential. If the person whose name was changed was born or married in this state, records of the name change are

forwarded to the state registrar so that the records kept by the state registrar can be amended to reflect the name change, but the state registrar forwards to the register of deeds and the local registrar a form that states the petitioner's former name and states that the new name is confidential. Under the bill, records of an otherwise confidential name change may be inspected by another person if that person demonstrates to the court that there is good cause for the person to inspect the records and that the safety of the petitioner is not jeopardized.

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.** 786.36 (2) of the statutes is amended to read:

2 786.36 (2) The Except as provided in sub. (2m), the order shall be entered at
3 length upon the records of the court and a certified copy of the record shall be
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10 which fee the clerk of court shall charge to and collect from the petitioner. The state
11 registrar of vital statistics shall then correct the birth record, marriage record or
12 both, and direct the register of deeds and local registrar to make similar corrections
13 on their records.

14 **SECTION 2.** 786.36 (2m) of the statutes is created to read:

15 786.36 (2m) (a) Except as provided in par. (b), if the court determines that,
16 pursuant to s. 786.37 (4), publication of the petition is not required, all records
17 related to the petitioner's name change shall be confidential and are exempt from

1 disclosure under s. 19.35 (1). The court shall transmit to the register of deeds a form
2 that states the petitioner's former name and states that the new name is confidential.
3 The fee for recording a certified copy is the fee specified under s. 59.43 (2) (ag). If the
4 person whose name is changed or established was born or married in this state, the
5 clerk of the court shall send to the state registrar of vital statistics, on a form designed
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7 accompanied by the fee prescribed in s. 69.22, which fee the clerk of court shall charge
8 to and collect from the petitioner. The state registrar of vital statistics shall then
9 correct the birth record, marriage record, or both, and shall transmit to the register
10 of deeds and the local registrar a form that states the petitioner's former name and
11 states that the new name is confidential.

12 (b) The court may, upon good cause shown by a person and upon determining
13 that the safety of the petitioner is not jeopardized, allow the person to inspect a record
14 that is confidential under par. (a).

15 **SECTION 3.** 786.37 (4) of the statutes is created to read:

16 786.37 (4) Subsection (1) does not apply if the petitioner shows, by a
17 preponderance of the evidence, that publication of his or her petition could endanger
18 him or her and that he or she is not seeking a name change in order to avoid a debt
19 or conceal a criminal record.

20 **SECTION 4. Initial applicability.**

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

23 (END)

Barman, Mike

From: Wenzlaff, Tyler

Sent: Monday, October 24, 2011 9:38 AM

To: LRB.Legal

Subject: Draft Review: LRB 11-2736/1 Topic: Keeping name changes confidential

Please Jacket LRB 11-2736/1 for the ASSEMBLY.

10/24/2011