



1997 ASSEMBLY BILL 167

March 11, 1997 - Introduced by Representatives FOTI, LADWIG, HANDRICK, RILEY, DUFF, DOBYNS, GOETSCH, GRONEMUS, WILLIAMS, HUTCHISON, LORGE, MUSSER, M. LEHMAN, CULLEN, HAHN and WARD, cosponsored by Senators BUETTNER, FARROW, WELCH, PANZER and ROSENZWEIG. Referred to Committee on Children and Families.

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.

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 3 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 2 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 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. The court may order the name change if the nonpetitioning parent does not appear at the hearing or otherwise answer the petition. If the nonpetitioning parent does appear at the hearing or answer the petition and shows that he or she has not dissociated himself or herself from the minor or relinquished responsibility

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for the care, support and well-being of the minor, the court may order the name change only on the consent of the nonpetitioning parent.

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

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

3 786.36 (1) Any resident of this state, whether a minor or adult, may upon
4 petition to the circuit court of the county where he or she resides and upon filing a
5 copy of the notice, with proof of publication, as required by s. 786.37 (1), if no
6 sufficient cause is shown to the contrary, have his or her name changed or established
7 by order of the court. If

8 (2) (a) Subject to par. (b), if the person whose name is to be changed is a minor
9 under the age of 14 years, the petition may be made by: both parents, if living, or the
10 survivor of them; the guardian or person having legal custody of the minor if both
11 parents are dead or if the parental rights have been terminated by judicial
12 proceedings; or the mother, if the minor is a nonmarital child who is not adopted or
13 whose parents do not subsequently intermarry under s. 767.60, except that the
14 father must also make the petition unless his rights have been legally terminated.

15 (3) The order shall be entered at length upon the records of the court and a
16 certified copy of the record shall be recorded in the office of the register of deeds of
17 the county, who shall make an entry in a book to be kept by the register. The fee for
18 recording a certified copy is the fee specified under s. 59.43 (2) (ag). If the person
19 whose name is changed or established was born or married in this state, the clerk
20 of the court shall send to the state registrar of vital statistics, on a form designed by
21 the state registrar of vital statistics, an abstract of the record, duly certified,

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

5 **(4)** No person engaged in the practice of any profession for which a license is
6 required by the state may change his or her given name or his or her surname to any
7 other given name or any other surname than that under which the person was
8 originally licensed in the profession in this or any other state, in any instance in
9 which the state board or commission for the particular profession, after a hearing,
10 finds that practicing under the changed name operates to unfairly compete with
11 another practitioner or misleads the public as to identity or otherwise results in
12 detriment to the profession or the public. This prohibition against a change of name
13 by a person engaged in the practice of any profession does not apply to any person
14 legally qualified to teach in the public schools in this state, nor to a change of name
15 resulting from marriage or divorce, nor to members of any profession for which there
16 exists no state board or commission authorized to issue licenses or pass upon the
17 qualifications of applicants or hear complaints respecting conduct of members of the
18 profession.

19 **(5)** Any change of name other than as authorized by law is void.

20 **SECTION 2.** 786.36 (2) (b) of the statutes is created to read:

21 786.36 **(2)** (b) Notwithstanding par. (a), the name of a minor under 14 years of
22 age who has 2 living parents may be changed on the petition of one parent if, in
23 addition to filing a copy of the notice, with proof of publication, as required by s.
24 786.37 (1), the petitioning parent files proof of mailing, as required by s. 786.37 (2),

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1 and the nonpetitioning parent does not appear at the hearing on the petition or
2 otherwise answer the petition.

3 **SECTION 3.** 786.36 (2) (c) of the statutes is created to read:

4 786.36 (2) (c) If the nonpetitioning parent appears at the hearing on the
5 petition or otherwise answers the petition and shows that he or she has not
6 dissociated himself or herself from the minor or relinquished responsibility for the
7 minor's care, support and well-being, the court shall require the consent of the
8 nonpetitioning parent before changing the name of the minor.

9 **SECTION 4.** 786.37 of the statutes is renumbered 786.37 (1) and amended to
10 read:

11 786.37 (1) Before ~~applying to~~ petitioning the court for ~~changing or establishing~~
12 to change or establish a name, the applicant petitioner shall publish a class 3 notice
13 under ch. 985 stating the nature of the ~~application~~ petition and when and where the
14 ~~application~~ petition will be made heard.

15 **(3)** This section does not apply to the name change of a minor if parental rights
16 to the minor have been terminated and guardianship and legal custody transferred
17 under subch. VIII of ch. 48, and the minor has been placed in a permanent foster
18 home or a permanent treatment foster home, where the guardian and legal custodian
19 have petitioned to change the minor's name to the name or names of the minor's
20 foster parents or treatment foster parents.

21 **SECTION 5.** 786.37 (2) of the statutes is created to read:

22 786.37 (2) If the petition is for the change of name of a minor under 14 years
23 of age who has 2 living parents, and the petition is being made by one parent of the
24 minor, the petitioner shall, in addition to publishing the notice under sub. (1), mail
25 a copy of the notice and petition to the last-known address of the nonpetitioning

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1 parent at or immediately prior to the time of the first publication under sub. (1), if
2 that address can be ascertained with reasonable diligence.

3 **SECTION 6. Initial applicability.**

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

6 (END)