



2003 ASSEMBLY BILL 52

February 13, 2003 - Introduced by Representatives FOTI, VAN ROY, LASSA, MONTGOMERY, OLSEN, M. LEHMAN, HAHN, STONE, WARD, JESKEWITZ, LADWIG, HINES, OWENS, MUSSER, AINSWORTH, HUNDERTMARK, GUNDERSON, OTT, KREIBICH, HUEBSCH, TOWNSEND and COLON, cosponsored by Senators WIRCH, ROESSLER and RISSER. Referred to Committee on Children and Families.

- 1 **AN ACT** *to renumber and amend* 786.37; *to amend* 786.36 (1) (intro.), 786.36
2 (1) (b), 786.36 (1) (c) and 786.37 (title); and *to create* 786.36 (1m) and 786.37
3 (2) of the statutes; **relating to:** changing the name 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 that name. 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. Before applying to the court for a name change, the petitioner must publish a legal notice of the application once each week for three consecutive weeks in a newspaper that is likely to give notice to persons affected by the name change.

This bill permits the circuit court to change the name of a minor under 14 years of age who has two living parents on the petition of one parent 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 served a copy of the notice and petition on the nonpetitioning parent and the nonpetitioning parent does not appear at the hearing or otherwise answer the petition. If the nonpetitioning parent cannot be found or provided with notice, the petitioning parent must also file an affidavit showing that 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. If the nonpetitioning parent appears at the hearing or otherwise answers the petition and shows that he

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or she has not abandoned the minor or failed to assume parental responsibility for the minor, the court may order the name change only if the nonpetitioning parent consents.

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

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

2 786.36 (1) (intro.) Any resident of this state, whether a minor or adult, may
3 upon petition to the circuit court of the county where he or she resides and upon filing
4 a copy of the notice, ~~with proof of publication, as required by under s. 786.37 (1), with~~
5 proof of publication, may, if no sufficient cause is shown to the contrary, have his or
6 her name changed or established by order of the court. ~~If Subject to sub. (1m), if the~~
7 person whose name is to be changed is a minor under the age of 14 years, the petition
8 may be made by whichever of the following is applicable:

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

10 786.36 (1) (b) The guardian or person having legal custody of the minor, if both
11 parents are dead or if the parental rights of both parents have been terminated by
12 judicial proceedings.

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

14 786.36 (1) (c) The minor's mother, if the minor is a nonmarital child who is not
15 adopted or whose parents do not subsequently intermarry under s. 767.60, ~~except~~
16 ~~that the father must also make the petition unless his rights have been legally~~
17 ~~terminated~~ and if paternity of the minor has not been established.

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

19 786.36 (1m) (a) 1. Subject to subd. 2., the name of a minor under 14 years of
20 age who has 2 living parents may be changed on the petition of one parent if, in

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1 addition to filing a copy of the notice required under s. 786.37 (1), with proof of
2 publication, the petitioning parent files proof of service as required under s. 786.37
3 (2) and the nonpetitioning parent does not appear at the hearing on the petition or
4 otherwise answer the petition.

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

12 (b) If the nonpetitioning parent appears at the hearing on the petition or
13 otherwise answers the petition and shows that he or she has not abandoned the
14 minor, as described in s. 48.415 (1) (a) 3., (b), and (c), or failed to assume parental
15 responsibility for the minor, as described in s. 48.415 (6), the court shall require the
16 consent of the nonpetitioning parent before changing the name of the minor.

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

18 **786.37 (title) Change of name, notice of application petition.**

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

21 786.37 (1) Before ~~applying to~~ petitioning the court for ~~changing or establishing~~
22 to change or establish a name, the ~~applicant~~ petitioner shall publish a class 3 notice
23 under ch. 985 stating the nature of the ~~application petition~~ and when and where the
24 ~~application petition~~ will be made heard.

