

ROFS

Unanimous O.T.P.A.

L.D. 2034

Date:

(Filing No. H-)

but need to rewrite

to fix conflict w. PL 2019, c. 629.

JUDICIARY

(2) make correction

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
129TH LEGISLATURE
SECOND SPECIAL SESSION

COMMITTEE AMENDMENT " " to H.P. 1444, L.D. 2034, Bill, "An Act Concerning Name Changes for Minors"

Amend the bill in section 1 by striking out all of the first 2 lines (page 1, lines 2 and 3 in L.D.)

'Sec. 1. 18-C MRSA §1-701, as affected by PL 2019, c. 417, Pt. B, §14 and amended by c. 629, §1, is further amended to read:'

Amend the bill in section 1 in §1-701 in subsection 1 by inserting at the end a new blocked paragraph to read:

'For purposes of this section, "guardian" means a person appointed by a court to make decisions with respect to the personal affairs of an individual. "Guardian" includes a coguardian and a permanency guardian appointed under Title 22, section 4038-C but does not include a guardian ad litem.'

Amend the bill in section 1 in §1-701 by striking out all of subsection 2 and inserting the following:

'2. Notice and name change; adults. Upon receipt of a petition filed under subsection 1, paragraph A, the judge court, after due notice, may change the name of the person who is an adult. To protect the person's safety of the person for whom the name change is sought, the judge court may limit the notice required if the person shows by a preponderance of the evidence that:

B. The person is currently in reasonable fear of the person's safety.'

Amend the bill in section 1 in §1-701 by striking out all of subsections 2-A and 2-B (page 1, lines 36 to 40 and page 2, lines 1 to 24 in L.D.) and inserting the following:

'2-A. Notice and name change; minors. A parent or guardian who has filed a petition under subsection 1, paragraph B or has requested a name change in a District Court proceeding under subsection 1, paragraph C shall provide notice pursuant to the applicable rules of procedure to any other parent, any guardian and any person or agency with legal custody of the minor; to the guardian ad litem if one is currently appointed; and

(3)

(1)

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1 to the minor if the minor is 14 years of age or older, but does not need to publish notice of
2 the minor's name change unless the court orders that notice of the name change of the
3 minor be published due to the specific circumstances of the case. To protect the safety of
4 the minor for whom the name change is sought, the court may limit notice required if the
5 parent who has sole parental rights and responsibilities shows by a preponderance of the
6 evidence that:

7 A. The minor is a victim of abuse; or

8 B. The minor or petitioner is currently in reasonable fear of the minor's or petitioner's
9 safety.

10 2-B. Evaluation of minor's name change. Upon proof of service of the notice
11 required under subsection 2-A and after providing an opportunity for those entitled to
12 notice to respond to the petition:

13 A. The court shall change a minor's name by agreement of all parties, which a party
14 may indicate by signing a waiver; or

15 B. In the event that all parties do not agree to the name change, the court shall
16 consider the following factors to assess whether the request or petition is in the best
17 interest of the minor:

18 (1) The minor's expressed preference, if the minor is of sufficient age and
19 maturity to articulate a basis for preferring a particular name;

20 (2) If the minor is 14 years of age or older, whether the minor consents or objects
21 to the name change petition;

22 (3) The extent to which the minor uses a particular name;

23 (4) Whether the minor's name is different from any of the minor's siblings and
24 the degree to which the minor associates and identifies with siblings on any side
25 of the minor's family;

26 (5) The difficulties, harassment or embarrassment that the minor may experience
27 by bearing the current or proposed name; and

28 (6) Any other factor the court considers relevant to the minor's best interests,
29 including the factors outlined in Title 19-A, section 1653, subsection 3.

30 If the court finds that the name change is in the best interest of the minor by a
31 preponderance of the evidence, the court shall change the minor's name.'

32 Amend the bill in section 1 in §1-701 in subsection 3 in the last line (page 2, line 27
33 in L.D.) by striking out the following: "seal the record of the name change" and inserting
34 the following: 'seal make the record of the name change confidential or not public'

35 Amend the bill by relettering or renumbering any nonconsecutive Part letter or
36 section number to read consecutively.

37 **SUMMARY**

38 This amendment makes the following changes to the bill.

(B)

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1. It defines "guardian" to mean a person appointed by the court to make decisions with respect to the personal affairs of an individual. "Guardian" includes a coguardian and a permanency guardian appointed pursuant to the Maine Revised Statutes, Title 22, section 4038-C, but "guardian" does not include a guardian ad litem.

2. It allows a probate judge to limit the notice requirement for a name change for an adult who shows by a preponderance of the evidence that the adult seeking the name change is in reasonable fear of the adult's safety.

3. It specifies that a parent or guardian who has filed a petition for a minor's name change must provide notice to a guardian ad litem, if one is appointed.

4. It specifies that a parent or guardian does not have to publish notice of a minor's name change unless the court orders that notice be published.

5. It clarifies the factors a court must consider to assess whether a request or petition for a name change is in the best interests of the minor.

6. It authorizes the court to make the record of a name change confidential or not public if the court limited the notice required for the name change.

FISCAL NOTE REQUIRED

(See attached)



129th MAINE LEGISLATURE

LD 2034

LR 3132(02)

An Act Concerning Name Changes for Minors

Fiscal Note for Bill as Amended by Committee Amendment " "

Committee: Judiciary

Fiscal Note Required: Yes

Fiscal Note

Minor cost increase - General Fund
Minor revenue increase - General Fund
Minor revenue increase - Other Special Revenue Funds

Correctional and Judicial Impact Statements

This bill may increase the number of civil suits filed in the court system.

The additional workload associated with the minimal number of new cases filed in the court system does not require additional funding at this time.

The collection of additional filing fees may increase General Fund and other dedicated revenue by minor amounts.



129th MAINE LEGISLATURE

SECOND REGULAR SESSION-2020

Legislative Document

No. 2034

H.P. 1444

House of Representatives, January 14, 2020

An Act Concerning Name Changes for Minors

Reported by Representative BAILEY of Saco for the Family Law Advisory Commission pursuant to the Maine Revised Statutes, Title 19-A, section 354, subsection 2.

Reference to the Committee on Judiciary suggested and ordered printed pursuant to Joint Rule 218.

A handwritten signature in cursive script that reads "Robert B. Hunt".

ROBERT B. HUNT
Clerk

1 **Be it enacted by the People of the State of Maine as follows:**

2 **Sec. 1. 18-C MRSA §1-701**, as enacted by PL 2017, c. 402, Pt. A, §2 and affected
3 by Pt. F, §1 and PL 2019, c. 417, Pt. B, §14, is amended to read:

4 **§1-701. Petition Process to change name**

5 **1. Petition, request; where filed.** ~~If a person desires to have that person's name~~
6 ~~changed, the person may petition the judge in the county where the person resides. If the~~
7 ~~person is a minor, the person's legal custodian may petition on the person's behalf. If~~
8 ~~there is a proceeding involving custody or other parental rights with respect to the minor~~
9 ~~pending in the District Court, the petition must be filed in the District Court~~ This section
10 governs the process to change the name of a person.

11 A. If a person desires to have that person's name changed, the person may petition
12 the Probate Court in the county where the person resides.

13 B. A parent or guardian of a minor may petition to change a minor's name in the
14 Probate Court in the county where the minor resides, unless the District Court has
15 exclusive jurisdiction pursuant to Title 4, section 152, subsection 5-A, in which case
16 the petition must be filed in the District Court.

17 C. A parent or guardian may request to change a minor's name as part of a
18 proceeding concerning parentage or other parental rights, including actions for
19 divorce, parental rights and responsibilities, post-judgment motions and any other
20 proceeding involving parental rights with respect to the minor, in the District Court
21 without filing a separate petition if the parent or guardian asserts good cause. A
22 minor may petition for a name change through an emancipation proceeding without
23 filing a separate petition if the minor asserts good cause. A change of a minor's name
24 may not be ordered pursuant to a protection from abuse order under Title 19-A,
25 section 4007.

26 For purposes of this section, "parent" means a person who, with respect to the minor, has
27 established parentage pursuant to Title 19-A, chapter 61 and whose parental rights have
28 not been terminated.

① →

29 **2. Notice and name change; adults.** Upon receipt of a petition filed under
30 subsection 1, paragraph A, the judge court, after due notice, may change the name of the
31 person who is an adult. To protect the person's safety of the person for whom the name
32 change is sought, the judge court may limit the notice required if the person shows by a
33 preponderance of the evidence that:

② →

- 34 A. The person is a victim of abuse; and
- 35 B. The person is currently in reasonable fear of the person's safety.

36 **2-A. Notice and name change; minors.** A parent or guardian who has filed a
37 petition under subsection 1, paragraph B or has requested a name change in a District
38 Court proceeding under subsection 1, paragraph C shall provide notice pursuant to the
39 applicable rules of procedure to any other parent, any guardian and any person or agency
40 with legal custody of the minor and to the minor if the minor is 14 years of age or older.

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1 To protect the safety of the minor for whom the name change is sought, the court may
2 limit notice required if the parent who has sole parental rights and responsibilities shows
3 by a preponderance of the evidence that:

4 A. The minor is a victim of abuse; or

5 B. The minor or petitioner is currently in reasonable fear of the minor's or petitioner's
6 safety.

7 Upon proof of service of such notice and after providing an opportunity for those entitled
8 to notice to respond to the petition, the court may change the minor's name if it finds good
9 cause. The court may change a minor's name by agreement of all the parties without a
10 determination of good cause.

11 **2-B. Evaluation of minor's name change.** In evaluating whether there is good
12 cause to change a minor's name, the court may consider the following factors:

13 A. The extent to which the minor identifies with and uses a particular name;

14 B. The minor's expressed preference, if the minor is of sufficient age and maturity to
15 articulate a basis for preferring a particular name;

16 C. The effect of the proposed name change on the minor's relationship with a parent;

17 D. Whether the minor's name is different from any of the minor's siblings and the
18 degree to which the minor associates and identifies with siblings on any side of the
19 minor's family;

20 E. Whether the minor is known by a particular name in the community;

21 F. The difficulties, harassment or embarrassment that the minor may experience by
22 bearing the current or proposed name; and

23 G. Any other factor the court considers relevant, including the factors outlined in
24 Title 19-A, section 1653, subsection 3.

25 **3. Record.** The judge court shall make and preserve a record of a name change. If
26 the judge court limited the notice required under subsection 2 or 2-A, the judge court may
27 seal the record of the name change.

28 **4. Filing fee.** The fee for filing a name change petition is \$40.

29 **5. Background checks.** The judge court may require a person seeking a name
30 change to undergo one or more of the following background checks: a criminal history
31 record check; a motor vehicle record check; or a credit check. The judge court may
32 require the person to pay the cost of each background check required.

33 **6. Denial of petition brought for improper purpose.** The judge court may not
34 change the name of a person if the judge court has reason to believe that the person is
35 seeking the name change for purposes of defrauding another person or entity or for
36 purposes otherwise contrary to the public interest.

37 **Sec. 2. 19-A MRSA §1653, sub-§2, ¶F** is enacted to read:

replace
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APPROVED

MARCH 18, 2020

BY GOVERNOR

CHAPTER

629

PUBLIC LAW

STATE OF MAINE

IN THE YEAR OF OUR LORD

TWO THOUSAND TWENTY

H.P. 1258 - L.D. 1771

An Act To Amend the Law Governing Name Changes

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 18-C MRSA §1-701, sub-§2, ¶A, as enacted by PL 2017, c. 402, Pt. A, §2 and affected by Pt. F, §1, is repealed.

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