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Legislative Document

No. 209

H.P. 144

House of Representatives, January 27, 2021

An Act Concerning Name Changes for Minors

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

Received by the Clerk of the House on January 25, 2021. Referred to the Committee on Judiciary pursuant to Joint Rule 308.2 and ordered printed.

A handwritten signature in cursive script that reads "R 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 amended by PL 2019, c. 629, §1, is further amended
3 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 there~~
8 ~~is a proceeding involving custody or other parental rights with respect to the minor pending~~
9 ~~in the District Court, the petition must be filed in the District Court~~ This section governs
10 the process to change the name of a person.

11 A. A person may petition to change that person's name in the Probate Court in the
12 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 proceeding
18 concerning parentage or other parental rights, including actions for divorce, parental
19 rights and responsibilities, post-judgment motions and any other proceeding involving
20 parental rights with respect to the minor, in the District Court without filing a separate
21 petition if the parent or guardian asserts good cause.

22 D. A minor may petition for a name change through an emancipation proceeding
23 without filing a separate petition if the minor asserts good cause.

24 E. A change of a minor's name may not be ordered pursuant to a protection from abuse
25 order under Title 19-A, 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 not
28 been terminated.

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

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

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

40 **2-A. Notice and name change; minors.** A parent or guardian who has filed a petition
41 under subsection 1, paragraph B or has requested a name change in a District Court
42 proceeding under subsection 1, paragraph C shall provide notice pursuant to the applicable

1 rules of procedure to any other parent, any guardian and any person or agency with legal
2 custody of the minor; to the guardian ad litem if one is currently appointed; and to the minor
3 if the minor is 14 years of age or older, but does not need to publish notice of the minor's
4 name change unless the court orders that notice of the name change of the minor be
5 published due to the specific circumstances of the case. To protect the safety of the minor
6 for whom the name change is sought, the court may limit notice required if the parent who
7 has sole parental rights and responsibilities shows by a preponderance of the evidence that:

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

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

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

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

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

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

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

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

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

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

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

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

33 **3. Record.** The judge court shall make and preserve a record of a name change. If
34 the judge court limited the notice required under subsection 2 or 2-A, the judge court may
35 seal make the record of the name change confidential or not public.

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

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

