

STATE OF MAINE

—
IN THE YEAR OF OUR LORD
TWO THOUSAND TWENTY-FOUR

—
S.P. 305 - L.D. 747

An Act Regarding the Reporting of Adult Name Changes by the Probate Courts to the State Bureau of Identification

Mandate preamble. This measure requires one or more local units of government to expand or modify activities so as to necessitate additional expenditures from local revenues but does not provide funding for at least 90% of those expenditures. Pursuant to the Constitution of Maine, Article IX, Section 21, 2/3 of all of the members elected to each House have determined it necessary to enact this measure; and

Emergency preamble. Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, ensuring that the timely and accurate reporting of all name changes to the Department of Public Safety, Bureau of State Police, State Bureau of Identification is essential to the operations of the State Bureau of Identification; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

PART A

Sec. A-1. 18-C MRSA §1-701, as amended by PL 2021, c. 559, §§1 to 3, is further amended to read:

§1-701. Process to change name

1. Petition, request; where filed. This section governs the process to change the name of a person.

A. A person may petition to change that person's name in the Probate Court in the county where the person resides.

B. A parent or guardian of a minor may petition to change a minor's name in the Probate Court in the county where the minor resides, unless the District Court has

exclusive jurisdiction pursuant to Title 4, section 152, subsection 5-A, in which case the petition must be filed in the District Court.

C. A parent or guardian may request to change a minor's name as part of a proceeding concerning parentage or other parental rights, including actions for divorce, parental rights and responsibilities, post-judgment motions and any other proceeding involving parental rights with respect to the minor, in the District Court without filing a separate petition if the parent or guardian asserts good cause.

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

E. A change of a minor's name may not be ordered pursuant to a protection from abuse order under Title 19-A, section 4007.

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

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.

For purposes of this section, "bureau" means the Department of Public Safety, Bureau of State Police, State Bureau of Identification.

2. Adult's name change. Upon receipt of a petition filed by an adult under subsection 1, paragraph A, the court may change the name of that adult. The court may not require public notice before approving the name change. Before approving the name change, the court shall notify the petitioner that:

A. The name change order will be public unless the court grants a request by the petitioner to make the name change order confidential as provided in subsection 3-A; and

B. An abstract of the name change order will be transmitted to the bureau unless the court grants a request by the petitioner not to transmit the abstract of the name change order to the bureau as provided in subsection 3-B, paragraph C.

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 to the minor if the minor is 14 years of age or older. To protect the safety of the minor for whom the name change is sought, the court may limit notice required under this subsection if the parent who has sole parental rights and responsibilities shows by a preponderance of the evidence that:

A. The minor is a victim of abuse; or

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

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

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

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

- (1) The minor's expressed preference, if the minor is of sufficient age and maturity to articulate a basis for preferring a particular name;
- (2) If the minor is 14 years of age or older, whether the minor consents or objects to the name change petition;
- (3) The extent to which the minor uses a particular name;
- (4) Whether the minor's name is different from any of the minor's siblings and the degree to which the minor associates and identifies with siblings on any side of the minor's family;
- (5) The difficulties, harassment or embarrassment that the minor may experience by bearing the current or proposed name; and
- (6) Any other factor the court considers relevant to the minor's best interests, including the factors outlined in Title 19-A, section 1653, subsection 3.

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

3. ~~Record~~ Name change of minor; confidentiality. The court shall make and preserve a record of a name change of a minor. The court may make the ~~record of the name change confidential or not public~~.

3-A. Name change of adult; confidentiality. The court shall make and preserve a record of a name change of an adult. Upon request, the court may order that the name change be confidential if the court finds that, under the circumstances, the adult's interest in maintaining the confidentiality of the record outweighs the public interest in the disclosure of the record. In making this determination, the court shall consider the following factors:

A. Whether the adult is a victim of abuse;

B. Whether the adult is currently in reasonable fear of the adult's safety;

C. Whether the adult is a program participant in the Address Confidentiality Program pursuant to Title 5, section 90-B;

D. The results of the criminal history record check and any other background checks ordered under subsection 5. There is a rebuttable presumption that the public interest in the disclosure of the record outweighs the adult's interest in maintaining the confidentiality of the record if the adult was convicted of murder or a Class A, Class B or Class C crime within the 10 years immediately preceding the filing of the petition under subsection 1, paragraph A or was convicted of a Class D or Class E crime within the 5 years immediately preceding the filing of the petition; and

E. Any other factor that the court considers relevant.

The court may not order that the name change be confidential under this subsection if the adult is currently under official supervision as a probationer, a parolee or a sex offender on supervised release or is currently required to register as a sex offender.

3-B. Transmission of adult name change to bureau. This subsection governs transmission of adult name change orders to the bureau.

A. Except as provided in paragraph C, the court shall electronically transmit to the bureau an abstract of any name change order of an adult issued on or after January 1, 2025 pursuant to this section. The abstract must include the adult's former name, new name and date of birth; whether the court ordered that the record of the name change be confidential under subsection 3-A; and, if known to the court and not otherwise confidential, the adult's physical address and the number associated with the adult's criminal history record information, as defined in Title 16, section 703, subsection 3 or other number assigned by the bureau.

B. Title 16, section 704, subsection 3 and Title 16, section 705, subsection 4 govern dissemination of criminal history record information by a Maine criminal justice agency for an adult whose name has been changed pursuant to an order made confidential under subsection 3-A.

C. Upon request and upon a showing of extraordinary circumstances, the court may order that an abstract of a name change order of an adult made confidential under subsection 3-A not be transmitted to the bureau.

4. Filing fee. The fee for filing a name change petition is \$75.

5. Background checks. The court ~~may shall~~ require ~~a person an adult~~ seeking a name change to undergo ~~one or more of the following background checks:~~ a criminal history record check; ~~The court may require a minor seeking a name change to undergo a criminal history record check and may require any person seeking a name change to undergo a motor vehicle record check; or a credit check.~~ The court may require the person to pay the cost of each background check required.

6. Denial of petition brought for improper purpose. The court may not change the name of a person if the court has reason to believe that the person is seeking the name change for purposes of defrauding another person or entity or for purposes otherwise contrary to the public interest. There is a rebuttable presumption that the name change is brought for purposes contrary to the public interest if the adult is currently under official supervision as a probationer, a parolee or a sex offender on supervised release or is currently required to register as a sex offender.

PART B

Sec. B-1. 16 MRSA §704, sub-§3 is enacted to read:

3. Public criminal history record information of person whose legal name has been changed. Except as provided in this subsection, a Maine criminal justice agency may disseminate public criminal history record information associated with each former and current legal name of a person whose name has been changed to any person or public or private entity for any purpose. If an order changing the person's name was made

confidential under Title 18-C, section 1-701, subsection 3-A or any other provision of law, a Maine criminal justice agency:

A. May not disclose the existence or nonexistence of the person's legal name change to any person or public or private agency that is not authorized to receive confidential criminal history record information under section 705; and

B. In response to a request for public criminal history record information from any person or public or private agency that is not authorized to receive confidential criminal history record information under section 705, may not disseminate public criminal history record information about a person that is associated with any legal name of the person not included within the request.

Sec. B-2. 16 MRSA §705, sub-§4 is enacted to read:

4. Confidential criminal history record information of person whose legal name has been changed. Regardless of whether the order changing a person's name was made confidential under Title 18-C, section 1-701, subsection 3-A or any other provision of law, a Maine criminal justice agency may disseminate confidential criminal history record information associated with each former and current legal name of a person whose name has been changed to any person or public or private entity that is authorized to receive confidential criminal history record information under subsection 1-A.

Emergency clause. In view of the emergency cited in the preamble, this legislation takes effect when approved.