

Joint Committee on the Judiciary  
Supplemental Testimony of GLAD

Re: LD 1900 – An Act to Amend the Laws Governing Name Changes – OTP

January 25, 2022

Senator Carney, Representative Harnett, & Distinguished Members of the Judiciary Committee,

My name is Mary Bonauto, and I am an attorney for GLBTQ Legal Advocates & Defenders (GLAD) and live in Portland.

GLAD appreciates Representative Sheehan for bringing this bill forward. In addition to our testimony with Equality Maine and others in support of the bill, as to adult name changes, we agree with the changes in the name change statutes for minors and adults for other reasons as well.

First, the notice to “interested parties as required by law” currently in statute (see LD 1900, sec. 1) suggests a very broad duty to affirmatively advertise one’s personal affairs to others, but third party notice, to our knowledge, is not automatically required in name change proceedings. Moreover, as a defined term in the Maine Probate Code, “interested person” sweeps in a wide variety of persons when they have a right or claim against a trust or estate of a person or for reimbursement for VA benefits. That definition provides:

**Interested person.** "Interested person" includes heirs, devisees, children, spouses, domestic partners, creditors, beneficiaries and any others having a property right in or claim against a trust estate or the estate of a decedent, ward or protected person. "Interested person" also includes persons having priority for appointment as personal representative and other fiduciaries representing interested persons. In any proceeding or hearing under [Article 5](#) affecting a trust estate or estate, when the ward or protected person has received benefits from the United States Department of Veterans Affairs within 3 years, "interested person" includes the Secretary of Veterans Affairs. The definition of "interested person" as it relates to particular persons may vary from time to time and must be determined according to the particular purposes of, and matter involved in, any proceeding.

18-C MRSA §26

As the last sentence of this Probate Code definition states, what constitutes an “interested person” can be context dependent. Name changes are very much about the freedom of an individual to change their name in a judicial process – absent a purpose of defrauding others or for purposes contrary to the public interest. *In re Boardman*. 2017 ME 131, ¶ 8. Accordingly, this body can determine that the proper definition of interested person in an adult name change is “no one,” as the amended bill provides as the Amendment to LD 1900 provides. Governing law

provides that “name changes are to be liberally granted,” and the Probate Code should be “liberally construed and applied to promote its underlying purposes and policies,” including allowing name changes. *Id.*

At the same time, if a Probate Court Judge has specific, credible reasons to be concerned about fraud, it could request the petitioner to assure the Court that the person has no improper purpose. Some Probate Courts use Form AF-103, “Affidavit by Adult Seeking to Have Name Changed,” which requires a person to attest that their name change petition is not for the purpose of “avoid[ing] any legal obligation” and other matters. See <https://www.maineprobate.net/forms2019/affidavits/AF-103%20Affidavit%20of%20Name%20Change%20for%20Adult.pdf>

Second, GLAD agrees with the Family Law Advisory Commission as to minor name changes being an intra-familial matter and not appropriate for notice to interested persons. As FLAC stated in its Jan. 20, 2022 filing with this Committee,

FLAC supports this bill for a number of reasons. First, there is no legitimate public interest served by publishing a name change for a minor and there is potential risk to a minor in publishing this type of information. In addition, there are numerous documents related to children, such as juvenile court records, child protective records, and Guardian *ad litem* reports, that are not public and confidential. Therefore, it makes sense to allow the court the discretion to also make confidential or not public the record of a minor’s name change. Finally, especially because Maine allows a person with a valid name change judgment to request a new birth certificate, allowing the court to also make not public or confidential that related name change judgment would allow the minor to more fully live their life with their new legal name without members of the public being able to access potentially sensitive information about the minor’s previous legal name.

Thank you for your consideration of LD 1900 and please feel free to be in touch if we can be of any assistance.

Truly yours,

/s/ MLB

Mary L. Bonauto, for GLBTQ Legal Advocates & Defenders