

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

S

3

SENATE BILL 369
Judiciary II Committee Substitute Adopted 4/3/13
House Committee Substitute Favorable 4/18/13

Short Title: Name Change Requirements for Minors.

(Public)

Sponsors:

Referred to:

March 20, 2013

A BILL TO BE ENTITLED

AN ACT TO CLARIFY CERTAIN NAME CHANGE REQUIREMENTS AND AUTHORIZE
A PARENT TO APPLY FOR A NAME CHANGE FOR A MINOR CHILD WITHOUT
CONSENT OF THE OTHER PARENT IF THE OTHER PARENT HAS BEEN
CONVICTED OF CERTAIN CRIMINAL OFFENSES AGAINST THE MINOR CHILD
OR A SIBLING OF THE MINOR CHILD.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 101-2(d) reads as rewritten:

"(d) An application to change the name of a minor child may be filed by the child's parent or parents, ~~guardian, guardian appointed under Article 6 of Chapter 35A of the General Statutes, or guardian ad litem, litem appointed under Rule 17 of the Rules of Civil Procedure,~~ and this application may be joined in the application for a change of name filed by the parent or parents. ~~Nothing in this section shall be construed to permit one parent to make an application on behalf of a minor child without the consent of the other parent if both parents are living; except that a minor who has reached the age of 16 years, upon proper application to the clerk, may change his or her name with the consent of the parent who has custody of the minor and has supported the minor, without the necessity of obtaining the consent of the other parent, when the clerk of court is satisfied that the other parent has abandoned the minor.~~ A change of parentage or the addition of information relating to parentage on the birth certificate of any person is governed by G.S. 130A-118. An application to change the name of a minor child may not be filed without the consent of both parents if both parents are living, unless one of the following applies:

- (1) A minor who has reached the age of 16 may file an application to change his or her name with the consent of the parent who has custody of the minor and has supported the minor, without the necessity of obtaining the consent of the other parent, when the clerk of court is satisfied that the other parent has abandoned the minor.
- (2) A parent may file an application on behalf of the minor without the consent of the other parent if the other parent has abandoned the minor child.
- (3) A parent may file an application on behalf of the minor without the consent of the other parent if the other parent has been convicted of any of the following offenses against the minor or a sibling of the minor:
 - a. Felonious or misdemeanor child abuse.
 - b. Taking indecent liberties with a minor in violation of G.S. 14-202.1.



* S 3 6 9 - V - 3 *

- 1 c. Rape or any other sex offense in violation of Article 7A of Chapter
- 2 14 of the General Statutes.
- 3 d. Incest in violation of G.S. 14-178.
- 4 e. Assault, communicating a threat, or any other crime of violence.

5 For purposes of subdivisions (1) and (2) of this subsection, abandonment may be shown by
6 filing. The consent of a parent who has abandoned a minor child is not required if a copy of an
7 order of a court of competent jurisdiction adjudicating that parent's abandonment of the minor
8 if filed with the clerk. minor. If a court of competent jurisdiction has not declared the minor to
9 be an abandoned child, the clerk, on 10 days' written notice by registered or certified mail,
10 directed to the last known address of the parent alleged to have abandoned the child, may
11 determine whether the parent has abandoned the child. If the parent denies that the parent
12 abandoned the child, this issue of fact shall be transferred and determined as provided in
13 G.S. 1-301.2. If abandonment is determined, the consent of the parent is not required. Upon
14 final determination of this issue of fact the proceeding shall be transferred back to the special
15 proceedings docket for further action by the clerk. A parent who files an application on behalf
16 of a minor pursuant to subdivision (3) of this subsection shall submit proof of the other parent's
17 conviction to the clerk at the time of filing."

18 **SECTION 2.** G.S. 101-5 reads as rewritten:

19 **"§ 101-5. Name change application requirements; grounds for clerk to order or deny**
20 **name change; certificate and record.**

21 (a) A person who desires to change his or her true name may apply to the clerk of
22 superior court of the county where the person resides and must submit all of the following
23 information to the clerk in support of the application for a name change:

- 24 (1) The applicant's true name, county of birth, date of birth, the full name of
25 parents as shown on birth certificate, and the name sought to be adopted.
- 26 (2) The certified results of an official a state and national criminal history record
27 check-check conducted within 90 days of the date of application by the State
28 Bureau of Investigation, the Federal Bureau of Investigation, or a Channeler
29 approved by the Federal Bureau of Investigation. The requirements of this
30 subdivision shall not apply to an application to change the name of a minor
31 less than 16 years of age.
- 32 (3) A sworn statement as to the following:
 - 33 a. That the applicant is a bona fide resident of, and domiciled in, the
 - 34 county where the change of name is sought.
 - 35 b. Whether or not the applicant has outstanding tax or child support
 - 36 obligations.

37 (b) The clerk shall instruct the applicant on the process for having fingerprints taken
38 and submitted for the criminal history record check, including providing information on law
39 enforcement agencies or acceptable service providers. The clerk may require the applicant to
40 provide any other information that the clerk determines is reasonably necessary for the fair and
41 complete review of the name change application.

42 (c) The clerk shall review all the information contained in the application and otherwise
43 available to the clerk to determine whether there is good and sufficient reason to grant or to
44 deny the name change.

45 (d) Except as prohibited by G.S. 101-6(c), if the clerk finds that good and sufficient
46 reasons exist for the change of name, and the applicant has met the requirements of subsection
47 (a) of this section, it is the clerk's duty to issue an order changing the name of the applicant
48 from that person's true name to the name sought to be adopted. The order shall contain all of
49 the following:

- 50 (1) The true name, the county of birth, the date of birth, the full name of parents
51 as shown on birth certificate, and the name sought to be adopted.

1 (2) The clerk's summary of the information reviewed in connection with the
2 application.

3 The clerk shall issue to the applicant a certificate under the clerk's hand and seal of office,
4 stating the change made in the applicant's name, and shall also record the application and order
5 on the docket of special proceedings in his court.

6 (e) The clerk shall forward the order granting the name change to:

7 (1) The State Registrar of Vital Statistics on a form provided by the Registrar. If
8 the applicant was born in North Carolina, the State Registrar shall note the
9 change of name of the individual or individuals specified in the order on the
10 birth certificate of that individual or those individuals and shall notify the
11 register of deeds in the county of birth. If the applicant was born in another
12 state of the United States, the State Registrar shall forward the notice of
13 change of name to the registration office of the state of birth. If the name
14 change is not a matter of public record pursuant to G.S. 101-2(c), the clerk
15 shall notify the State Registrar; however, the State Registrar shall not notify
16 the register of deeds in the applicant's county of birth or the registration
17 office of the state of birth.

18 (2) The Division of Criminal Information at the State Bureau of Investigation,
19 which shall update its records to show the name change.

20 (f) If the clerk finds that good and sufficient reasons exist to deny the applicant's
21 request for a name change, it is the clerk's duty not to issue an order changing the name of the
22 applicant from that person's true name to the name sought to be adopted. The order denying the
23 name change shall state the reasons for the denial. If the applicant desires to appeal the clerk's
24 decision, the applicant must petition the ~~chief~~-resident superior court judge within 30 days of
25 the date of the order denying the name change to request a reconsideration of the application.
26 The reconsideration decision of the ~~chief~~-resident superior court judge is final and not subject
27 to appeal. An unsuccessful applicant on reconsideration is subject to a waiting period of 12
28 months from the date of the adverse decision of the ~~chief~~-resident superior court judge before
29 the applicant may submit another name change application. A successful applicant on
30 reconsideration shall be granted the name change by the clerk in like manner as prescribed by
31 subsection (d) of this section.

32 (g) Upon information obtained by the clerk of fraud or material misrepresentation in the
33 application for a name change, the clerk on his or her own motion may set aside the order
34 granting the name change after notice to the applicant and opportunity to be heard. If the clerk
35 sets aside the name change order, the clerk shall notify the State Registrar of Vital Statistics
36 and the Division of Criminal Information."

37 **SECTION 3.** This act becomes effective October 1, 2013, and applies to
38 applications for name changes filed on or after that date.