

**JUDICIAL COUNCIL OF CALIFORNIA
ADMINISTRATIVE OFFICE OF THE COURTS**

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San Francisco, California 94102-3688

Report

TO: Members of the Judicial Council

FROM: Civil and Small Claims Advisory Committee
Hon. Lee Smalley Edmon, Chair
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DATE: April 11, 2007

SUBJECT: Name Change Forms (revise forms NC-100, NC-120, NC-130, and
NC-130G) (Action Required)

Issue Statement

Assembly Bill 2303, which became effective January 1, 2007, modified the procedures for requesting a change of name. In particular, Code of Civil Procedure sections 1277 and 1278 were amended and provide that, if no written objection to a proposed name change is filed at least two court days before the scheduled hearing, the court may grant the petition without a hearing. The Judicial Council forms for petitions, orders to show cause, and decrees of name change should be revised to reflect this procedural change.

Also, Senate Bill 1743 expanded the categories of persons in the domestic violence confidentiality program who are exempt from the requirement for publication of an order to show cause why a petition for name change should not be granted. The instruction on the petition for a name change should be revised to contain this information.

Recommendation

The Civil and Small Claims Advisory Committee recommends that the Judicial Council, effective July 1, 2007, revise the following forms to reflect recent amendments to the name change statutes:

1. *Petition for Change of Name* (form NC-100);
2. *Order to Show Cause for Change of Name* (form NC-120);
3. *Decree Changing Name* (form NC-130); and

4. *Decree Changing Name of Minor (by Guardian)* (form NC-130G).

Revised forms NC-100, NC-120, NC-130, and NC-130G are attached at pages 4-7.

Rationale for Recommendation

Four Judicial Council forms used to petition for a decree of change of name need to be revised to implement recent statutory changes. Specifically, they need to be revised in response to the enactment of Assembly Bill 2303 and Senate Bill 1743.¹

Assembly Bill 2303

Under Assembly Bill 2303, the procedures for requesting a decree of name change have been modified. The following provision has been added to Code of Civil Procedure section 1277 regarding the order to show cause:

The order shall direct all persons interested in the matter to make known any objection that they may have to the granting of the petition for change of name by filing a written objection, which includes the reasons for the objection, with the court at least two court days before the matter is scheduled to be heard and by appearing in court at the hearing to show cause why the petition for change of name should not be granted. The order shall state that, if no written objection is timely filed, the court may grant the petition without a hearing.

Similarly, a statement in Code of Civil Procedure section 1278 was modified to include the following underlined language: “If no objection is filed at least two court days before the date set for hearing, the court may, without hearing, enter the order that the change of name is granted.”

To reflect the preceding legislation, the *Order to Show Cause for Change of Name* (form NC-120) should be revised to include a new item 3, which states: “Any person objecting to the name changes described above must file a written objection that includes the reasons for the objection at least two court days before the matter is scheduled to be heard and must appear at the hearing and show cause why the petition should not be granted. If no written objection is timely filed, the court may grant the petition without hearing.”

Also, *Decree Changing Name* (form NC-130) and *Decree Changing Name of a Minor (by Guardian)* (form NC-130G) should be revised so that item 1 includes the option that the petition was decided “without hearing.”

¹ Only the four name change forms that are the subject of this report need to be revised in response to the legislation. Other forms used to request a name change (that is, forms NC-110, NC-110G, and NC-121) are legally sufficient and should continue to be used.

Finally, on the reverse side of *Petition for Change of Name* (form NC-100), the “Instructions for Filing a Petition for Name Change” should be revised to inform petitioners that, if no written objections are timely filed, the court may grant the petition without a hearing.

Senate Bill 1743

The instructions on the reverse side of the *Petition for Change of Name* (form NC-100) also need to be changed to reflect the enactment of SB 1743. Under that bill, petitioners seeking name changes are exempt from publishing the order to show cause if they are participants in the address confidentiality program under Government Code section 6205 et seq., and the petition alleges that they are petitioning (1) to avoid domestic violence, or (2) to avoid stalking, or (3) the petition is, or is filed on behalf of, a victim of sexual assault. In these circumstances, the petition and order shall, in lieu of reciting the proposed name, indicate that the proposed name is confidential and will be on file with the Secretary of State under the provisions of the address confidentiality program. The instructions on form NC-100 should be revised to include information about these new provisions.

Other Technical Changes

Item 4 on the Instructions on *Petition for Change of Name* (form NC-100) should be revised to refer to the current form numbers for the fee waiver forms. Item 5 should be revised to state more accurately the procedures for obtaining a hearing date and filing an *Order to Show Cause*.

Alternative Actions Considered

There is no alternative to revising the forms because the recent statutory changes require that the forms be changed to be accurate and to include information about the current law regarding name changes.

Comments From Interested Parties

The proposed revisions have not been circulated for comment because they are technical and noncontroversial, and they should be made promptly so that the forms will accurately state the law.

Implementation Requirements and Costs

Some minor costs will be incurred in replacing the current forms with the revised forms. But the benefits, including informing the public that hearings may not be needed and that notice by publication is not required in certain circumstances, outweigh these costs.

Attachments

ATTORNEY OR PARTY WITHOUT ATTORNEY <i>(Name, State Bar number, and address):</i> TELEPHONE NO.: _____ FAX NO. <i>(Optional):</i> _____ E-MAIL ADDRESS <i>(Optional):</i> _____ ATTORNEY FOR <i>(Name):</i> _____	FOR COURT USE ONLY
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
PETITION OF <i>(Name of each petitioner):</i>	
PETITION FOR CHANGE OF NAME	CASE NUMBER:

Before you complete this petition, you should read the *Instructions for Filing a Petition for Change of Name* on the next page. You must answer all questions and check all boxes on this petition that apply to you. You must file this petition in the superior court of the county where the person whose name is to be changed resides.

1. Petitioner *(name):* _____ resides in this county.

2. Petitioner requests that the court decree the following name changes *(list every name that you are seeking to change):*

<u>Present name</u>	<u>Proposed name</u>
a. _____	changed to _____
b. _____	changed to _____
c. _____	changed to _____
d. _____	changed to _____

Continued *(if you are seeking to change additional names, you must prepare a list and attach it to this petition as Attachment 2).*

3. Petitioner requests that the court issue an order directing all interested persons to appear and show cause why this petition for change of name of the persons identified in item 2 should not be granted.

4. The number of persons under 18 years of age whose names are to be changed is *(specify):* _____

5. If this petition requests the change of name of any person or persons under 18 years, this request is being made by

- a. both parents.
- b. mother only.
- c. father only.
- d. near relative *(name and relationship):*
- e. guardian *(name):*
- f. other *(specify):*

6. For each person whose name is to be changed, petitioner provides the following information *(you must attach a completed copy of the attachment Name and Information About the Person Whose Name Is to Be Changed (form NC-110) for each person identified in item 2):*

a. The number of attachments included in this petition is *(specify number):* _____

b–f. *(Attachment page or pages)*

(Instructions on next page)

INSTRUCTIONS FOR FILING A PETITION FOR CHANGE OF NAME

1. **Where to File**

The petition for change of name must be filed in the superior court of the county where the person whose name is to be changed presently lives.

2. **Whose Name May Be Changed**

The petition may be used to change one's own name and, under certain circumstances, the names of others (e.g., children under 18 years of age).

3. **What Forms Are Required**

Prepare an original and two copies of each of the following documents:

- a. *Petition for Change of Name* (form NC-100)
- b. *Name and Information About the Person Whose Name Is to Be Changed (Attachment to Petition)* (form NC-110) (attach as many copies as necessary)
- c. *Order to Show Cause for Change of Name* (form NC-120)
- d. *Decree Changing Name* (form NC-130 or, for guardians, form NC-130G)

In addition, a guardian must prepare and attach a *Declaration of Guardian (Supplemental Attachment to Petition)* (form NC-110G) for each child whose name is to be changed.

4. **Filing and Filing Fee**

Prepare an original *Civil Case Cover Sheet* (form CM-010). File the original petition and *Civil Case Cover Sheet* with the clerk of the court and obtain two filed-endorsed copies of the petition. A filing fee will be charged unless you qualify for a fee waiver. (If you want to apply for a fee waiver, see *Application for Waiver of Court Fees and Costs* (form FW-001); *Information Sheet on Waiver of Court Fees and Costs* (form FW-001-INFO); and *Order on Application for Waiver of Court Fees and Costs* (form FW-003).)

5. **Requesting a Court Hearing Date and Obtaining the Order to Show Cause**

You should request a date for the hearing on the *Order to Show Cause* at least six weeks in the future. Take the completed form to the clerk's office. The clerk will provide the hearing date and location, obtain the judicial officer's signature, file the original, and give you a copy.

6. **Publishing the Order to Show Cause**

In most cases, a copy of the *Order to Show Cause* must be published in a local newspaper of general circulation once a week for **at least four consecutive weeks** before the date of the hearing. The petitioner selects the newspaper from among those newspapers legally qualified to publish orders and notices. The newspaper used must file a Proof of Publication with the superior court before the hearing. If no newspaper of general circulation is published in the county, the court may order the *Order to Show Cause* to be posted by the clerk. But petitioners do not have to publish the order if they are participants in (1) the State Witness Program or (2) in the Address Confidentiality Program and the petition alleges that they are (a) petitioning to avoid domestic violence, or (b) petitioning to avoid stalking, or (c) the petitioner is, or is filing on behalf of, a victim of sexual assault.

7. **Name Change for Children**

- a. If a petitioning parent is requesting the name change for a child under 18 years of age, and one of the parents, if living, does not join in consenting to the name change, the petitioning parent must have a copy of the *Order to Show Cause* or notice of the time and place of the hearing served on the nonconsenting parent. Service must be made **at least 30 days prior to the hearing** under Code of Civil Procedure section 413.10, 414.10, 415.10, or 415.40.
- b. If the nonconsenting parent resides in California, the order or notice must be personally served on the nonconsenting parent. The petitioning parent cannot personally serve this document.
- c. If the nonconsenting parent resides outside California, he or she may be served by sending a copy of the order or notice by first-class mail, postage prepaid, return receipt requested.
- d. If a petition to change the name of a child has been filed by a guardian, the guardian must (1) provide notice of the hearing to any living parent of the child by personal service at least 30 days before the hearing, or (2) if either or both parents are deceased or cannot be located, serve notice of the hearing on the child's grandparents, if living, not less than 30 days before the hearing under Code of Civil Procedure section 413.10, 414.10, 415.10, or 415.40.

If you have served a parent or grandparents, file a copy of the completed *Proof of Service of Order to Show Cause* (form NC-121) with the court before the hearing.

8. **Confidentiality of Certain Names**

In cases where the petitioner is a participant in the domestic violence confidentiality program and is exempt from publishing the *Order to Show Cause* as explained in 6, the petition for name change and the decree should, instead of giving the proposed name, indicate that the name is confidential and on file with the Secretary of State.

9. **Court Hearing**

If no written objection is filed at least two court days before the hearing, the court may grant the petition without a hearing. Check with the court to find out if a hearing will be held. If there is a hearing, bring copies of all documents to the hearing. If the judge grants the petition, the judge will sign the original decree.

10. If you want to amend a birth certificate to show the name change, you should contact the following office:

California Department of Health Services, Office of Vital Records
MS 5103, P.O. Box 997410, Sacramento, CA 95899-7410
Phone: (916) 445-2684, Web site: www.dhs.ca.gov

Local courts may supplement these instructions. Check with the court to determine whether supplemental information is available. For instance, the court may provide you with additional written information identifying the department that handles name change petitions, the times when petitions are heard, and the newspapers that may be used to publish the *Order to Show Cause*.

PETITIONER OR ATTORNEY (Name, State Bar number, and address): TELEPHONE NO.: _____ FAX NO. (Optional): _____ E-MAIL ADDRESS (Optional): _____ ATTORNEY FOR (Name): _____	FOR COURT USE ONLY
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
PETITION OF (Name of each petitioner): <div style="text-align: right;">FOR CHANGE OF NAME</div>	
ORDER TO SHOW CAUSE FOR CHANGE OF NAME	CASE NUMBER: _____

TO ALL INTERESTED PERSONS:

1. Petitioner (name): _____ filed a petition with this court
 for a decree changing names as follows:

<u>Present name</u>		<u>Proposed name</u>
a. _____	to	_____
b. _____	to	_____
c. _____	to	_____
d. _____	to	_____
e. _____	to	_____

Continued on Attachment 1.

2. THE COURT ORDERS that all persons interested in this matter appear before this court at the hearing indicated below to show cause, if any, why the petition for change of name should not be granted. Any person objecting to the name changes described above must file a written objection that includes the reasons for the objection at least two court days before the matter is scheduled to be heard and must appear at the hearing to show cause why the petition should not be granted. If no written objection is timely filed, the court may grant the petition without a hearing.

NOTICE OF HEARING

a. Date: _____ Time: _____ <input type="checkbox"/> Dept.: _____ <input type="checkbox"/> Room: _____

b. The address of the court is same as noted above other (specify): _____

3. a. A copy of this *Order to Show Cause* shall be published at least once each week for four successive weeks prior to the date set for hearing on the petition in the following newspaper of general circulation, printed in this county (specify newspaper): _____

b. Other (specify): _____

Date: _____

JUDGE OF THE SUPERIOR COURT

NOTE: When a *Petition for Change of Name* has been filed for a child and the other parent, if living, does not join in consenting to the name change, the petitioner must have a notice of the time and place of the hearing or a copy of the *Order to Show Cause* served on the other parent not less than 30 days prior to the hearing under Code of Civil Procedure section 413.10, 414.10, 415.10, or 415.40. If a petition to change the name of a child has been filed by a guardian, the guardian must (1) provide notice of the hearing to any living parent of the child by personal service at least 30 days before the hearing, or (2) if either or both parents are deceased or cannot be located, serve notice of the hearing on the child's grandparents, if living, not less than 30 days before the hearing under Code of Civil Procedure section 413.10, 414.10, 415.10, or 415.40. (This Note is included for the information of the petitioner and shall not be included in the *Order to Show Cause* published in the newspaper.)

PETITIONER OR ATTORNEY <i>(Name, State Bar number, and address):</i> <hr/> TELEPHONE NO. _____ FAX NO. <i>(Optional):</i> _____ E-MAIL ADDRESS <i>(Optional):</i> _____ ATTORNEY FOR <i>(Name):</i> _____	FOR COURT USE ONLY
SUPERIOR COURT OF CALIFORNIA, COUNTY OF _____ STREET ADDRESS _____ MAILING ADDRESS: _____ CITY AND ZIP CODE: _____ BRANCH NAME: _____	
PETITION OF <i>(Name of each petitioner):</i> _____ <div style="text-align: right;">FOR CHANGE OF NAME</div>	
DECREE CHANGING NAME	CASE NUMBER: _____

1. The petition was duly considered:
- a. at the hearing on *(date)*: _____ in Courtroom: _____ of the above-entitled court.
- b. without hearing.

THE COURT FINDS

2. a. All notices required by law have been given.
- b. Each person whose name is to be changed identified in item 3 below
- (1) is not is under the jurisdiction of the Department of Corrections, and
- (2) is not is required to register as a sex offender under section 290 of the Penal Code.
- These determinations were made by using CLETS/CJIS based on information provided to the clerk of the court by a local law enforcement agency.
- c. No objections to the proposed change of name were made.
- d. Objections to the proposed change of name were made by *(name)*: _____
- e. it appears to the satisfaction of the court that all the allegations in the petition are true and sufficient and that the petition should be granted.
- f. Other findings (if *any*): _____

THE COURT ORDERS

3. The name of
- | | | | |
|----------|---------------------|---------------|-----------------|
| | <u>Present name</u> | | <u>New name</u> |
| a. _____ | | is changed to | _____ |
| b. _____ | | is changed to | _____ |
| c. _____ | | is changed to | _____ |
| d. _____ | | is changed to | _____ |
| e. _____ | | is changed to | _____ |

Additional name changes are listed on Attachment 3.

Date: _____

 JUDGE OF THE SUPERIOR COURT
 SIGNATURE OF JUDGE FOLLOWS LAST ATTACHMENT

PETITIONER OR ATTORNEY (<i>Name, State Bar number, and address</i>): TELEPHONE NO.: _____ FAX NO. (<i>Optional</i>): _____ E-MAIL ADDRESS (<i>Optional</i>): _____ ATTORNEY FOR (<i>Name</i>): _____	FOR COURT USE ONLY
SUPERIOR COURT OF CALIFORNIA, COUNTY OF _____ STREET ADDRESS: _____ MAILING ADDRESS: _____ CITY AND ZIP CODE: _____ BRANCH NAME: _____	
PETITION OF (<i>Name of each petitioner</i>): _____ <div style="text-align: right;">FOR CHANGE OF NAME</div>	
DECREE CHANGING NAME OF MINOR (BY GUARDIAN)	CASE NUMBER: _____

1. The petition was duly considered:
- a. at the hearing on (*date*): _____ in Courtroom: _____ of the above-entitled court.
 - b. without hearing.

THE COURT FINDS

2. a. All notices required by law have been given.
- b. The person whose name is to be changed (*specify present name*): _____ is a minor.
- c. The petition for change of name was filed on behalf of the minor by the minor's guardian (*name*): _____
- d. The minor whose name is to be changed is likely to remain in the guardian's care until the age of majority.
- e. The minor whose name is to be changed is not likely to be returned to the custody of his or her parents.
- f. The minor whose name is to be changed
- (1) is not is under the jurisdiction of the Department of Corrections, and
 - (2) is not is required to register as a sex offender under section 290 of the Penal Code.
- These determinations were made by using CLETS/CJIS based on information provided to the clerk of the court by a local law enforcement agency.
- g. No objections to the proposed change of name were made.
 - h. Objections to the proposed change of name were made by (*name*): _____
 - i. It appears to the satisfaction of the court that all the allegations in the petition are true and sufficient, that the proposed name change is in the best interest of the minor, and that the petition should be granted.
 - j. Other findings (if any): _____

THE COURT ORDERS

3. The name of (*present name*): _____ is changed to (*new name*): _____

Date: _____

 JUDGE OF THE SUPERIOR COURT
 SIGNATURE OF JUDGE FOLLOWS LAST ATTACHMENT