

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

455 Golden Gate Avenue
San Francisco, California 94102-3688

Report

TO: Members of the Judicial Council

FROM: Civil and Small Claims Advisory Committee
Hon. Dennis M. Perluss, Chair
Anne M. Ronan, Attorney, Committee Counsel, 415-865-8933
anne.ronan@jud.ca.gov

DATE: September 8, 2009

SUBJECT: Civil Law: Confidential Name Change Proceedings (adopt Cal. Rules of Court, rules 2.575, 2.576, and 2.577; adopt forms NC-400, NC-400-INFO, NC-410, and NC-420; approve form NC-425; and revise form NC-100) (Action Required)

Issue Statement

Amendments to Code of Civil Procedure section 1277 enacted in Assembly Bill 2304 ([Plescia]; Stats. 2008, ch. 586) mandate that when a person seeks a name change based on abuse, stalking, or sexual assault *and* that person is participating in the Secretary of State's confidential address program, Safe at Home, the court must keep the current legal name of the person confidential. In addition, the person may ask the court to file the petition and any associated papers under seal. This proposal recommends the adoption of rules of court and forms to implement the requirements of the new statutory provisions.

Recommendation

The Civil and Small Claims Advisory Committee recommends that the Judicial Council, effective January 1, 2010,

1. Adopt California Rules of Court, rules 2.575, 2.576, and rule 2.577, concerning name change proceedings under the address confidentiality program;
2. Revise the "Instructions for Filing a Petition for Change of Name" on the *Petition for Change of Name* (form NC-100);
3. Adopt the following mandatory forms:

- a. *Confidential Cover Sheet—Name Change Proceeding Under Address Confidentiality Program (Safe at Home)* (form NC-400)
 - b. *Information Sheet for Name Change Proceedings Under Address Confidentiality Program (Safe at Home)* (form NC-400-INFO)
 - c. *Application to File Documents Under Seal in Name Change Proceeding Under Address Confidentiality Program (Safe at Home)* (form NC-410)
 - d. *Declaration in Support of Application to File Documents Under Seal in Name Change Proceedings Under Address Confidentiality Program (Safe at Home)* (form NC-420); and
4. Approve optional form *Order on Application to File Documents Under Seal in Name Change Proceeding Under Address Confidentiality Program (Safe at Home)* (form NC-425).

The text of the proposed rules is attached beginning at page 7.

The proposed forms are attached at page 12.

Rationale for Recommendation

Previously under prior Code of Civil Procedure section 1277, a certain level of confidentiality was provided to a name change petitioner who is a participant in Safe at Home, the confidential address program established by the Secretary of State under Government Code 6205 et seq. and who is seeking a name change to avoid domestic violence or stalking or because the petitioner is, or is filing on behalf of, a victim of sexual assault. Under the provisions of the prior law (which remain in effect), the proposed new name of such petitioner did not have to be included on the petition for name change or the name change decree and the order to show cause regarding the name change did not have to be published.

AB 2304, effective January 1, 2009, amended section 1277 to expand this protection, requiring that the current name, as well as the proposed new name, of the Safe at Home participant be kept from public view. While the party's current legal name must be provided to the court, the name must be kept confidential from all others and not published or posted in the court's calendars, indexes, or register of actions, or by any means or in any public forum, including a hard copy or an electronic copy, or any other type of public media or display. (Code Civ. Proc., § 1277(b).)

In addition, AB 2304 provides that a participant in the Safe at Home program may request that the court, in addition to keeping the party's name confidential, permit the party to file the name change petition and other documents under seal. The court may grant such request if it finds that certain factors stated in the statute apply in a particular case.

This proposal includes new rules and forms to facilitate both new levels of confidentiality: (1) the mandatory confidentiality of the petitioner’s name and (2) the filing of a record under seal where appropriate.

Confidentiality of current name

Proposed rule 2.575 and *Confidential Cover Sheet—Name Change Proceeding Under Address Confidentiality Program (Safe at Home)* (form NC-400) are intended to assist a name change petitioner and the court in identifying those documents containing information (the current name of the petitioner) that the new law requires the court to keep confidential. Under the rule, a name change petitioner who is in the confidential address program and is seeking the confidentiality of section 1277(b) must attach to the front of the name change petition and any related document a completed *Confidential Cover Sheet*. (Proposed rule 2.575(d).) The petition or other document will contain the current legal name of the petitioner; the *Confidential Cover Sheet* will not. The cover sheet will contain the case number (once assigned) and the name and address of counsel (if there is one) and will identify any document that is attached.

The new *Information Sheet for Name Change Proceedings Under Address Confidentiality Program (Safe at Home)* (form NC-400-INFO) explains what is different procedurally and legally for name change petitioners in the confidential address program, describes the confidentiality provided by law, advises the petitioner how to start the process through the Safe at Home program, and instructs the petitioner how to complete name change forms to assure confidentiality, including using the *Confidential Cover Sheet*. This new information sheet gathers in one place facts and instructions that were included in parts of several separate paragraphs in the instructions on the back of the current *Petition for Change of Name* (form NC-100). The information sheet also provides new information reflecting the added protections under AB 2304, including the procedures for seeking leave to file the petition under seal, and a warning about potential consequences of a confidential name change.

The proposal also includes a minor proposed revision of the “Instructions for Filing a Petition for Change of Name” located on the back of the *Petition for Change of Name* (form NC-100): moving the paragraph titled “Confidentiality of Certain Names” to the third paragraph and revising it to refer petitioners in the Safe at Home program to the new confidential name change information sheet.

Proposed rule 2.576 states how the confidentiality provided to the court records of the petitioner’s name may be terminated and provides that a request for termination of the confidentiality must be made by noticed motion, served on the

petitioner through the office of the Safe at Home program as provided in Government Code section 6206(a)(5)(A).

Applications to file records under seal

Proposed rule 2.577 and the remaining proposed forms are legislatively mandated to implement the statute that provides that a petitioner in the confidential address program may ask the court to file the records under seal. (Code Civ. Proc., § 1277(b)(4).)

A request to file under seal must be made on the *Application to File Documents Under Seal in Name Change Proceeding Under Address Confidentiality Program (Safe at Home)* (form NC-410) and must be supported by a *Declaration in Support of Application to File Documents Under Seal in Name Change Proceeding Under Address Confidentiality Program (Safe at Home)* (form NC-420). (Proposed rule 2.577(b).)

The forms are titled and structured to make it clear that they may be used only for requests for sealing made under Code of Civil Procedure section 1277 and only by participants in the confidential address program. Any other request to file under seal must be made following the procedures in rule 2.550 et seq. of the California Rules of Court. (Proposed rule 2.577(a).)

An optional order form has also been developed, *Order on Application to File Documents Under Seal in Name Change Proceeding Under Address Confidentiality Program (Safe at Home)* (form NC-425). Code of Civil Procedure section 1277(b)(4)(A) lists five factors that must exist for a court to permit that the documents be filed under seal.¹ The proposed order states each of the factors, with check boxes to indicate whether the court has found the factor to exist in the action. There is space for the court to expand its findings if it desires to do so.

The new amendments to section 1277(b) provide that the hearing on the request to file the name change petition under seal may be held at the same time as the hearing on the name change petition itself. (Code Civ. Proc., § 1277(b)(4)(A).) This presents some logistical difficulties because the petition will not be filed unless and until the application to file the petition for name change under seal is granted. In the event the application to file the petition under seal is granted, the proposed rule provides that the petition for name change that had been lodged with the court may be filed and considered immediately upon the grant of the application. (Proposed rule 2.577(f)(4).) However, if the court has not, in preparing to rule on the application to file under seal, already performed the tasks

¹ They are the factors required for permitting the sealing of court records under *NBC Subsidiary (KNBC-TV), Inc. v. Superior Court* (1999) 20 Cal.4th 1178.

that are required before the name change decree can be granted, i.e., confirming that the petitioner is not a registered sex offender, etc., a later hearing date may be set for the petition.

If the application to file under seal is denied, the petition that has been lodged with the court cannot be immediately filed and considered because the petitioner may not want to proceed if required to do so with unsealed files. The proposed rule provides a 10-day time frame in which the petitioner may notify the court if the party wishes the petition to be filed unsealed. (Proposed rule 2.577(d).) This is consistent with other rules regarding requests to file under seal.

Alternatives Considered

No alternatives to adopting new rules and forms were considered because this proposal is the result of a legislative mandate that the Judicial Council develop rules of court and forms consistent with the new statutory provisions. (Code Civ. Proc., § 1277(b)(4)(B).)

Comments From Interested Parties

The proposed forms and rules were circulated as part of the spring 2009 comments cycle. Nine comments were received. They came from the Safe at Home program of the Secretary of State's office; Superior Courts of Los Angeles, Orange, Riverside, and San Diego Counties; the Joint Rules Working Group of the Trial Court Presiding Judges Advisory Committee and the Court Executives Advisory Committee; two bar organizations, including the State Bar's Standing Committee on the Delivery of Legal Services; and an individual attorney. Seven commentators were in favor of the proposals, and three were in favor if the proposal was modified. A chart summarizing all of the comments received and the committee's responses is attached beginning at page 21. The more substantive comments are discussed below.

The Standing Committee on the Delivery of Legal Services and the Safe at Home program both emphasized the importance of informing parties that the new provisions of Code of Civil Procedure section 1277 do not permit parties to change a child's name without notifying the noncustodial parent or grandparent of the change. The paragraph regarding children's name changes in the new information sheet that was circulated (form NC-400-INFO) has been moved up on the form (to item 6) and has been modified to clarify this point.

The Superior Court of San Diego County proposed that the forms be put into plain language, particularly the *Declaration in Support of Application to File Documents Under Seal in Name Change Proceeding Under Address Confidentiality Program (Safe at Home)* (form NC-420). That commentator noted that the items in which the petitioner is to enter facts supporting the various factors

that must be met to obtain an order permitting the petition to be filed under seal (items 4 through 8) were worded “very legally” and the forms might better serve the litigants if simplified and put in plain language. The committee declines to adopt this suggestion, at least at this time. First, the current forms in the Name Change series are not in the plain language format. Since the new forms will be filed in conjunction with the current forms, they were developed in the same format to maintain consistency and avoid confusion. While the committee may in the future consider changing the Name Change form series to a plain language format, it believes that all the forms in the series that are filed with or issued by the court should be in the same style, whichever style that is, rather than changed on a piecemeal basis.

Second, the text of the specific items that the commentator focused on is taken directly from the statute that lists the factors that a court must find to permit the petition to be filed under seal. (Code Civ. Proc., § 1277(b)(4)(A).) That part of the statute directly echoes the factors for sealing specified in rule 2.550(d), which tracks the factors laid out in *NBC Subsidiary (KNBC-TV), Inc. v. Superior Court* (1999) 20 Cal.4th 1178. The committee concluded that making changes to this statutorily approved language might lead to a legal challenge and so did not make the requested modifications.

The San Diego County court also pointed to the proposed information sheet (form NC-400-INFO) as being particularly difficult to read. Because this form is not filed with or issued by the court, the committee determined that it need not be in the same format as the other Name Change forms. The committee has modified the format of the information sheet to make it more readable by increasing the font size and putting the text into columns. Because the form is already on two pages (front and back of a single sheet), the expansion caused by this reformatting, filling in more of the second page, does not result in a longer form.

In reviewing the proposed rules in light of the comments received, the committee also made some minor modifications to the rules that were circulated. Rule 2.575(d) and (e) were edited for clarity and consistency between the two subdivisions. Rule 2.577(f)(2) and (3) have been reordered, and the description of the procedure in (3) has been clarified.

Implementation Requirements and Costs

There will be some minor costs in making the new forms available to the public. There are no other implementation requirements over and above those inherent to the amended statute regarding confidential name changes.

Attachments

Rule 2.575, 2.576, and 2.577 of the California Rules of Court are adopted, effective January 1, 2010, to read as follows:

1 **Chapter 5.**

2 **Name Change Proceedings Under Address Confidentiality Program**

3
4 **Rule 2.575. Confidential information in name change proceedings under**
5 **address confidentiality program**

6
7 **(a) Definitions**

8
9 As used in this chapter, unless the context or subject matter otherwise
10 requires:

11
12 (1) “Confidential name change petitioner” means a petitioner who is a
13 participant in the address confidentiality program created by the
14 Secretary of State under chapter 3.1 (commencing with section 6205)
15 of division 7 of title 1 of the Government Code.

16
17 (2) “Record” means all or a portion of any document, paper, exhibit,
18 transcript, or other thing that is filed or lodged with the court.

19
20 (3) “Lodged” means temporarily placed or deposited with the court but not
21 filed.

22
23 **(b) Application of chapter**

24
25 The rules in this chapter apply to records filed in a change of name
26 proceeding under Code of Civil Procedure section 1277(b) by a confidential
27 name change petitioner who alleges any of the following reasons or
28 circumstances as a reason for the name change:

29
30 (1) The petitioner is seeking to avoid domestic violence, as defined in
31 Family Code section 6211.

32
33 (2) The petitioner is seeking to avoid stalking, as defined in Penal Code
34 section 646.9.

35
36 (3) The petitioner is, or is filing on behalf of, a victim of sexual assault, as
37 defined in Evidence Code section 1036.2.

1 **(c) Confidentiality of current name of the petitioner**

2
3 The current legal name of a confidential name change petitioner must be kept
4 confidential by the court as required by Code of Civil Procedure section
5 1277(b)(3) and not be published or posted in the court’s calendars, indexes,
6 or register of actions, or by any means or in any public forum. Only the
7 information concerning filed records contained on the confidential cover
8 sheet prescribed under (d) may be entered into the register of actions or any
9 other forum that is accessible to the public.

10
11 **(d) Special cover sheet omitting names of the petitioner**

12
13 To maintain the confidentiality provided under Code of Civil Procedure
14 section 1277(b) for the petitioner’s current name, the petitioner must attach a
15 completed Confidential Cover Sheet—Name Change Proceeding Under
16 Address Confidentiality Program (Safe at Home) (form NC-400) to the front
17 of the petition for name change and every other document filed in the
18 proceedings. The name of the petitioner must not appear on that cover sheet.

19
20 **(e) Confidentiality of proposed name of the petitioner**

21
22 To maintain the confidentiality provided under Code of Civil Procedure
23 section 1277(b) for the petitioner’s proposed name, the petitioner must not
24 include the proposed name on the petition for name change or any other
25 record in the proceedings. In any form that requests the petitioner’s proposed
26 name, the petitioner and the court must indicate that the proposed name is
27 confidential and on file with the Secretary of State under the provisions of
28 the Safe at Home address confidentiality program.

29
30
31 **Rule 2.576. Access to name of the petitioner**

32
33 **(a) Termination of confidentiality**

34
35 The current name of a confidential name change petitioner must remain
36 confidential until a determination is made that:

- 37
38 (1) Petitioner’s participation in the address confidentiality program has
39 ended under Government Code section 6206.7; or
40
41 (2) The court finds by clear and convincing evidence that the allegations of
42 domestic violence or stalking in the petition are false.
43

1 **(b) Procedure to obtain access**

2
3 A determination under (a) must be made by noticed motion, with service by
4 mail on the confidential name change petitioner in care of the Secretary of
5 State’s address confidentiality program as stated in Government Code
6 section 6206(a)(5)(A).
7
8

9 **Rule 2.577. Procedures for filing confidential name change records under seal**

10
11 **(a) Court approval required**

12
13 Records in a name change proceeding may not be filed under seal without a
14 court order. A request by a confidential name change petitioner to file
15 records under seal may be made under the procedures in this chapter. A
16 request by any other petitioner to file records under seal must be made under
17 rules 2.550–2.573.
18

19 **(b) Application to file records in confidential name change proceedings**
20 **under seal**

21
22 An application by a confidential name change petitioner to file records under
23 seal must be filed at the time the petition for name change is submitted to the
24 court. The application must be made on the *Application to File Documents*
25 *Under Seal in Name Change Proceeding Under Address Confidentiality*
26 *Program (Safe at Home) (NC-410)* and be accompanied by a *Declaration in*
27 *Support of Application to File Documents Under Seal in Name Change*
28 *Proceeding Under Address Confidentiality Program (Safe at Home)* (form
29 NC-420), containing facts sufficient to justify the sealing.
30

31 **(c) Confidentiality**

32
33 The application to file under seal must be kept confidential by the court until
34 the court rules on it.
35

36 **(d) Procedure for lodging of petition for name change**

37
38 (1) The records that may be filed under seal must be lodged with the court
39 in a sealed envelope.
40

41 (2) The petitioner must complete and affix to the envelope a completed
42 *Confidential Cover Sheet—Name Change Proceeding Under Address*
43 *Confidentiality Program (Safe at Home)* (form NC-400) and in the

1 space under the title and case number mark it “CONDITIONALLY
2 UNDER SEAL.”

3
4 (3) On receipt of a petition lodged under this rule, the clerk must endorse
5 the affixed cover sheet with the date of its receipt and must retain but
6 not file the record unless the court orders it filed.

7
8 (4) If the court denies the application to seal, the clerk must return the
9 lodged record to the petitioner and must not place it in the case file
10 unless the petitioner notifies the clerk in writing within 10 days after
11 the order denying the application that the unsealed petition and related
12 papers are to be filed.

13
14 **(e) Consideration of application to file under seal**

15
16 The court may order that the record be filed under seal if it finds that all of
17 the following factors apply:

18
19 (1) There exists an overriding interest that overcomes the right of public
20 access to the record;

21
22 (2) The overriding interest supports sealing the record;

23
24 (3) A substantial probability exists that the overriding interest will be
25 prejudiced if the record is not sealed;

26
27 (4) The proposed order to seal the record is narrowly tailored; and

28
29 (5) No less restrictive means exist to achieve the overriding interest.

30
31 **(f) Order**

32
33 (1) The order may be issued on *Order on Application to File Documents*
34 *Under Seal in Name Change Proceeding Under Address*
35 *Confidentiality Program (Safe at Home)* (form NC-425).

36
37 (2) Any order granting the application to seal must state whether the
38 declaration in support of the application, the order itself, and any other
39 record in the proceeding are to be sealed as well as the petition for
40 name change.

41
42 (3) If the court grants an order sealing a record, the clerk must strike out
43 the notation required by (d)(2) on the *Confidential Cover Sheet* that the

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 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. **Confidentiality of Certain Names**

In cases in which the petitioner is a participant in the Secretary of State's address confidentiality program (Safe at Home), petitioner's current and proposed names may be kept confidential. (Code Civ. Proc., § 1277(b).) See *Information Sheet for Name Change Proceedings Under Address Confidentiality Program (Safe at Home)* (form NC-400-INFO) for additional instructions when such confidentiality is desired.

4. **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.

5. **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).)

6. **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.

7. **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.

8. **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.

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*.

ATTORNEY (Name, State Bar number, and address; leave blank if no attorney): TELEPHONE NO.: _____ FAX NO. (Optional): _____ E-MAIL ADDRESS (Optional): _____ ATTORNEY FOR (Name): [CONFIDENTIAL]	FOR COURT USE ONLY CASE NUMBER: _____
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
PETITION OF (Name of each petitioner): <p style="text-align: center;">[CONFIDENTIAL]</p>	
CONFIDENTIAL COVER SHEET—NAME CHANGE PROCEEDING UNDER ADDRESS CONFIDENTIALITY PROGRAM (SAFE AT HOME)	

INSTRUCTIONS: This petition for change of name is being brought by a petitioner who is a participant in the Secretary of State's address confidentiality program under Government Code section 6205 et seq. and who (1) is petitioning to avoid domestic violence, (2) is petitioning to avoid stalking, or (3) is, or is filing on behalf of, a victim of sexual assault. **As provided by Code of Civil Procedure section 1277(b), the current legal name of the petitioner must be kept confidential by the court and must not be published or posted in the court's calendars, indexes, or register of actions, or by any means or in any public forum.**

This Confidential Cover Sheet must be affixed to the first page of the petition and to any other documents filed in this name change action. (See *Information Sheet for Name Change Proceedings Under Address Confidentiality Program (Safe at Home)* (form NC-400 INFO).)

This cover sheet is affixed to the following documents (check all that apply):

1. Petition for Change of Name (form NC-100)
2. Attachment to Petition for the Name Change (form NC-110)
3. Order to Show Cause for Change of Name (form NC-120)
4. Decree Changing Name (form NC-130)
5. Civil Case Cover Sheet (form CM-010)
6. Application to File Documents Under Seal in Name Change Proceeding Under Address Confidentiality Program (Safe at Home) (form NC-410)
7. Declaration in Support of Application to File Documents Under Seal in Name Change Proceedings Under Confidentiality Program (Safe at Home) (form NC-420)
8. Order on Application to File Documents Under Seal in Name Change Proceeding Under Address Confidentiality Program (Safe at Home) (form NC-425)
9. Other (describe): _____

Date: _____

The name of the petitioner is to remain confidential UNLESS:

1. The petitioner's participation in the address confidentiality program is ended (Gov. Code, § 6206.7); or
2. The court finds by clear and convincing evidence that the allegations of domestic violence or stalking in the petition are false. (Code Civ. Proc., § 1278(b).)

1 Confidentiality in Name Change Proceedings

It is important that you understand that changing your name, especially confidentially, is a life-changing decision. It may make it more difficult for you to enforce a restraining order and significantly impair your ability to obtain a passport, apply for school programs, purchase or rent property, gain employment, get credit, start a business, and other matters.

The law provides confidentiality for a petitioner seeking a name change who is a participant in the Secretary of State’s confidential address program, Safe at Home, under Government Code section 6205 et seq., *and* who asserts reasons for a name change that include (1) seeking to avoid domestic violence, (2) seeking to avoid stalking, or (3) filing as, or on behalf of, a victim of sexual assault. (One of these reasons must be stated in the papers filed with the *Petition for Change of Name*.)

By law, the court must keep the current legal name of such a petitioner confidential. The court must not publish or post the name in the court’s calendars, indexes, or registers of actions, or in any other place in which it might be accessible to the public. In addition, the proposed new name is not put into the court records at all and does not have to be published. (Code Civ. Proc., § 1277(b).)

To ensure this confidentiality for the name change proceeding, petitioners must follow the instructions below.

2 Is a Lawyer Necessary?

You are not required to have a lawyer, but it is highly advisable that you contact a lawyer or legal service agency to discuss the effects of a confidential name change.

3 How to Get Started

Before beginning the court process for a confidential name change, you must be an active participant in the Safe at Home program. You must complete and file a Notice of Intent of Name Change with the Safe at Home program at the Secretary of State’s Office. You will receive a letter from that program to show to the court, confirming that the you are an active participant in the confidential address program and that a Notice of Intent of Name Change is on file. You can reach the Safe at Home program by calling toll free 1-877-322-5227 or by going to the Web site at www.sos.ca.gov/safeathome.

4 Where to File

As with all name change petitions, the petition filed under the confidential address program must be filed in the

superior court of the county where the person whose name is to be changed presently lives.

5 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).

6 Name Changes for Children

A petitioner in the confidential address program must comply with all the rules stated in item 8 in the *Instructions* on the back of the *Petition for Change of Name*, concerning serving notice of a name change petition for a child on the child’s parents or grandparents. The confidentiality provisions do not change those requirements. You will generally not be able to change a child’s name without notifying the other parent.

7 What Forms Are Required

Prepare an original and two copies of the forms described in item 4 of the *Instructions* on the back of the *Petition for Change of Name* (form NC-100). In addition:

- a. In the *Petition for Change of Name* (form NC-100), *Order to Show Cause for Change of Name* (form NC-120), and *Decree Changing Name* (form NC-130), include your present name where indicated. Instead of including the proposed new name, indicate that the new name is confidential and on file with the Secretary of State’s Safe at Home program.
- b. In the *Attachment to the Petition for Change of Name* (form NC-110), include the reasons for seeking the name change.
- c. Prepare and attach to the front of each document a *Confidential Cover Sheet—Name Change Proceeding Under Address Confidentiality Program (Safe at Home)* (form NC-400). Do not include the petitioner’s current name on these forms. These forms will flag the documents as containing confidential information.

You will also need a copy of the letter from the Safe at Home program to take to the court when filing the petition, to confirm that you are in the confidential address program and have a Notice of Intent of Name Change on file. Keep a copy of that letter for your records.

8 Filing

Follow the instructions in item 5 of the *Instructions* on the back of the *Petition for Change of Name* (form NC-100). Prepare and attach a *Confidential Cover Sheet* (form NC-

400) to the *Civil Case Cover Sheet* (form CM-010), your petition, and any other document you file under that item.

9 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 For Change of Name* at least six weeks after the date you file the petition. 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.

10 No Requirement to Publish the Order To Show Cause

In most cases, the *Order to Show Cause* must be published in a local newspaper of general circulation. But a petitioner does not have to publish the order if he or she is a participant in the address confidentiality program and the petition alleges that he or she (1) is petitioning to avoid domestic violence, (2) is petitioning to avoid stalking, or (3) is, or is filing on behalf of, a victim of sexual assault.

11 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.

12 Application to File Documents Under Seal

If a petitioner in the confidential address program believes that the protections described above and required by law that keeping the current and future name confidential are not sufficient in a particular case, the petitioner may ask the court to file the petition and related documents under seal. Documents filed under seal are secured and kept separate from the public files.

For the court to order that the petition may be filed under seal, you must show facts to support the following findings by the court:

- There is an overriding interest that overcomes the right of public access to the record.
- That overriding interest supports sealing the name change documents.
- A substantial probability exists that the overriding interest will be prejudiced if the record is not sealed.

- The proposed order to seal the records is narrowly tailored to protect that overriding interest.
- No less restrictive means than sealing the whole record exist to achieve the overriding interest.

A petitioner in the confidential address program may file an application to file records under seal following the procedures in rule 2.577 of the California Rules of Court. The application must be made on the *Application to File Documents Under Seal in Name Change Proceeding Under Address Confidentiality Program (Safe at Home)* (form NC-410) and be accompanied by a *Declaration in Support of Application to File Documents Under Seal in Name Change Proceeding Under Address Confidentiality Program (Safe at Home)* (form NC-420), containing facts sufficient to justify the sealing.

Attach a *Confidential Cover Sheet* (form NC-400) to the application. All the documents that you want filed under seal must be put in a sealed envelope, with a completed *Confidential Cover Sheet* (form NC-400) on top marked "Conditionally Under Seal." and lodged with the court. If the application is denied, the documents will be returned by the clerk unless you file written notice within 10 days that they should be filed unsealed.

13 Making the Records Public

Even if the documents are not sealed, as long as the other requirements are met, your name will remain confidential **UNLESS**:

- Your participation in the address confidentiality program is ended under Government Code section 6206.7; or
- The court finds by clear and convincing evidence that the allegations of domestic violence or stalking in the petition are false (see Code of Civil Procedure section 1278(b).)

If another person or a court wants to make the records public based on the above, the court must hold a hearing, with notice sent to the petitioner in care of the Safe At Home program, as permitted under Government Code section 6206(a)(5)(A).

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

PETITIONER:	CASE NUMBER:
-------------	--------------

6. Facts showing that there is a substantial probability that the overriding interest described in item 4 will be prejudiced if the records in this name change proceeding are not sealed are *(specify)*:

Continued on Attachment 6. *(If you need more space, attach form MC-025.)*

7. Facts showing that an order sealing the records in this action is narrowly tailored to protect that overriding interest are *(specify)*:

Continued on Attachment 7. *(If you need more space, attach form MC-025.)*

8. Facts showing that there is no less restrictive means to protect that overriding interest than filing the entire record under seal are *(specify, including facts that show why the law requiring the court to keep the current name and the proposed name confidential, is not sufficient protection of that interest)*:

Continued on Attachment 8. *(If you need more space, attach form MC-025.)*

The number of pages attached is: _____

I declare under penalty of perjury under the laws of the State of California that the foregoing, including statements on all attachments, is true and correct.

Date:

(TYPE OR PRINT NAME OF DECLARANT)

 _____

(SIGNATURE OF DECLARANT)

SPR09-13

Name Change: Confidential Name Change Rules and Forms (adopt Cal. Rules of Court, rules 2.575, 2.576, and 2.577; (adopt forms NC-400, NC-400-INFO, NC-410, and NC-420; approve form NC-425; and revise form NC-100)

All comments are verbatim unless indicated by an asterisk (*).

	Commentator	Position	Comment	Committee Response
1.	Julie Netchaev Saugus	A	No additional comment.	No response necessary.
2.	Orange County Bar Association by Michael G. Yoder President	A	No additional comment.	No response necessary.
3.	Safe at Home program, Secretary of State's Office by Cathy Patrick Manager	AM	<p>On Page 4: There is no reference to background checks prior to granting a confidential name change. It is our understanding that this is done in all cases.</p> <p>On Page 6: On line 23 the Code of Civil Procedure is listed as 1722 (b) instead of 1277 (b).</p> <p>On Page 13: Titled "Information Sheet for Name Change Proceedings....." [form NC-400-INFO] there are several changes:</p> <p>Under Item 1 - Where it reads: filing as, or on behalf of, a victim of sexual assault should read filing as, or on behalf of, a minor victim of sexual assault.</p>	<p>The committee notes that the text referred to by the commentator is part of the text on page 4 of the Invitation to Comment, not part of the proposed rules or forms. The Invitation to Comment text was not intended to provided a detailed description of the court procedures in name change proceedings.</p> <p>This reference in rule 2.575(e) has been corrected.</p> <p>The committee disagrees. The language in the proposed form tracks the text of Code of Civil Procedure § 1277(b)(2)(c). Further, Government Code § 6206 allows individuals acting on behalf of incapacitated adults as well as minors to seek a</p>

SPR09-13

Name Change: Confidential Name Change Rules and Forms (adopt Cal. Rules of Court, rules 2.575, 2.576, and 2.577; (adopt forms NC-400, NC-400-INFO, NC-410, and NC-420; approve form NC-425; and revise form NC-100)

All comments are verbatim unless indicated by an asterisk (*).

	Commentator	Position	Comment	Committee Response
			<p>Under Item 2 – It should read: Before beginning the court process for a “confidential” name change, the petitioner “must be an active participant in the Safe at Home Program” and should complete and file a Notice of Intent of Name Change with the Safe at Home program at the Office of the Secretary of State. Petitioner will receive a letter from the program to show to the court to confirm active status in the Safe at Home Program and that an Intent of Name Change is on file. Petitioners can reach the Safe at Home Program by calling toll free number at 1-877-322-5227.</p> <p>Under Item 5 – Part (a) “per the provisions of the Safe at Home Program pursuant to Section 1277 (b) of the Civil Code of Procedure” should be added after the Secretary of State. Part (c) should have after the last line: “However, petitioner’s current legal name must be on the Petition to Decree as required by Safe at Home.</p> <p>Also the petitioner should keep the copy of the letter from Safe at Home stating they are active and an intent to change name is on file.</p>	<p>confidential address.</p> <p>Item 2 on form NC-400-INFO has been modified in response this comment.</p> <p>Item 5 in the circulated form (now item 7) has been modified in light of this comment, although a slightly shorter version of the proposed language has been used.</p> <p>The form has been modified to include this information.</p>

SPR09-13

Name Change: Confidential Name Change Rules and Forms (adopt Cal. Rules of Court, rules 2.575, 2.576, and 2.577; (adopt forms NC-400, NC-400-INFO, NC-410, and NC-420; approve form NC-425; and revise form NC-100)

All comments are verbatim unless indicated by an asterisk (*).

	Commentator	Position	Comment	Committee Response
			<p>Under Item 9 – Children are considered participants in the Safe at Home Program and their parent is allow to apply for a confidential name change on the child’s behalf. We will file the child’s Intent to Change Name form and issue the standard letter to for the court for each child. It is then up to the court to determine whether the other parent needs to be notified, if the other parent’s rights have been terminated and if the Confidential Name Change can be granted. We advise Safe at Home participant’s that are initiating the confidential name change process to seek legal counsel first and to make sure they understand the process and risks involved.</p> <p>On Page 13 our web address needs to be changed to: www.sos.ca.gov/safeathome.</p>	<p>Item 9 on the circulated form has been moved up on the form to item 6 and has been modified in light of this and other comments.</p> <p>The form has been modified to include the Safe at Home program’s current web address.</p>
4.	State Bar of California, Standing Committee on Delivery of Legal Services Office of Legal Services by Sharon Ngim Staff Liaison	AM	The new confidentiality rules (California Rules of Court, rules 2.575, 2.576 and 2.577) allow the petitioner to keep his/her new name confidential. The new confidentiality rules also allow the petitioner to keep his/her children’s name change confidential from people, but not from the children’s other parent. We suspect that some petitioners may incorrectly believe that the process will be a way of changing their	Item 9 in the circulated information sheet (form NC-400-INFO) has been modified in light of this comment, and moved higher up on the form, to item number 6.

SPR09-13

Name Change: Confidential Name Change Rules and Forms (adopt Cal. Rules of Court, rules 2.575, 2.576, and 2.577; (adopt forms NC-400, NC-400-INFO, NC-410, and NC-420; approve form NC-425; and revise form NC-100)

All comments are verbatim unless indicated by an asterisk (*).

	Commentator	Position	Comment	Committee Response
			<p>children's names without notifying the other parent, especially when the other parent's violent actions caused the petitioner to enter the SAFE program.</p> <p>Although the proposed forms contain some language regarding this issue, we recommend that a clear simple statement be included in form NC-400-INFO and NC-100 to notify the petitioner that s/he will not be able to use this confidential process to change the children's names without notifying the other parent. In addition, a brief statement about the purpose and scope of this confidential process would be helpful to explain when this process is appropriate. Implementing these recommendations would reduce the likelihood of an inappropriate filing by a petitioner requesting to keep his/her children's names confidential from an abusive parent.</p>	
5.	Superior Court of Los Angeles County	A	No additional comments.	No response necessary.
6.	Superior Court of Riverside County by Carrie Snuggs Regional Operations Director	A	Forms are long overdue and much needed by the public.	The committee notes the court's support for the forms.

SPR09-13

Name Change: Confidential Name Change Rules and Forms (adopt Cal. Rules of Court, rules 2.575, 2.576, and 2.577; (adopt forms NC-400, NC-400-INFO, NC-410, and NC-420; approve form NC-425; and revise form NC-100)

All comments are verbatim unless indicated by an asterisk (*).

	Commentator	Position	Comment	Committee Response
7.	Superior Court of San Bernardino County by Cydney Fowler Court District Manager	A	The proposed changes will assist the clerks with identifying confidential name changes under Safe at Home and clarify the prior changes already implemented.	The committee notes the court's support for the forms.
8.	Superior Court of San Diego County by Michael M. Roddy Executive Officer	AM	<p>* The comments below were supplemented by marked-up revisions on the proposed forms, which are described below.</p> <p>NC-400 – <u>Confidential Cover Sheet – Name Change Proceeding Under Address Confidentiality Program (Safe at Home)</u></p> <ul style="list-style-type: none"> • "(Safe at Home)" was added after the title of the declaration form (item g) to match the title of the form, and be consistent with all the rest of the forms. <p>NC-400-INFO – <u>Information Sheet for Name Change Proceedings Under Address Confidentiality Program (Safe at Home)</u></p> <ul style="list-style-type: none"> • Item 1, second paragraph, second sentence. The word "may" was changed to "must" to reflect that the court is not allowed to publish or post the participants name. • Item 2, first sentence. The word "should" was changed to "must" to reflect the requirement that the participant must file the Notice of Intent of Name Change with the Safe at Home program prior to filing 	<p>Item 1(g) on form NC-400 has been modified in response to this comment.</p> <p>Item 1 on form NC-400-INFO has been modified in response to this comment.</p> <p>Item 2 has been modified in response to this comment.</p>

SPR09-13

Name Change: Confidential Name Change Rules and Forms (adopt Cal. Rules of Court, rules 2.575, 2.576, and 2.577; (adopt forms NC-400, NC-400-INFO, NC-410, and NC-420; approve form NC-425; and revise form NC-100)

All comments are verbatim unless indicated by an asterisk (*).

	Commentator	Position	Comment	Committee Response
			<p>their petition with the court.</p> <ul style="list-style-type: none"> • This form is not the easiest to read, and would be more useful to self represented litigants if it were in plain language. • In addition, it is not clear as to how the Confidential Coversheets are to be used. Are they supposed to be attached to each individual document, in separate sealed envelopes? Or is only one cover sheet used on top of a single sealed envelope? The Information Sheet makes it sound like multiple cover sheets are to be used, but the actual coversheet seems to imply that you can attach it to multiple documents when it states "check all that apply." With the current budget situation, it would be wise to only use one Confidential Cover Sheet, and one sealed envelope. If the petitioner did not, there would be a minimum of <u>eight</u> copies of the Confidential Cover Sheet and eight envelopes. It seems excessive since it is likely that a Judicial Officer would choose to either seal all of the documents, or none of the documents, making the need for only one envelope. 	<p>The committee has revised the form to make it more readable, increasing the font size and changing the format to columns.</p> <p>The confidential cover sheets are to be filed as the cover for any individual filing. Where a request to file sealed documents is made, a single sheet will be attached to the sealed envelope that is lodged with the court. However, where no sealing is requested and the documents are filed separately, a cover sheet should be attached to each document.</p>

SPR09-13

Name Change: Confidential Name Change Rules and Forms (adopt Cal. Rules of Court, rules 2.575, 2.576, and 2.577; (adopt forms NC-400, NC-400-INFO, NC-410, and NC-420; approve form NC-425; and revise form NC-100)

All comments are verbatim unless indicated by an asterisk (*).

	Commentator	Position	Comment	Committee Response
			<p>NC-410 – <u>Application to File Documents Under Seal in Name Change Proceeding Under Address Confidentiality Program (Safe at Home)</u></p> <ul style="list-style-type: none"> In the top instruction box, two of the form names did not match their correct title, so they have been changed to reflect the proper title and provide [on the attached forms] for consistency. Item 2, three forms that were listed on the Confidential Cover Sheet , <i>Decree Changing Name</i> (form NC-130), <i>Civil Cover Sheet</i> (form CM-010), and <i>Application to File Documents under Seal in Name Change Proceedings</i> (form NC-410), were missing and have been added to match the other forms. There may be a reason why they were not originally included, but they should be added for a couple of reasons. The first being consistency among the forms, and the second is that all of those forms should be included in being allowed to be filed under seal. Even if the document is not filed until after a hearing, it should be included as a document they would like sealed. <p>NC-420 – <u>Declaration In Support of Application</u></p>	<p>The names of the forms in the instructions box have been corrected.</p> <p>The forms in the comment have been added to the list in item 2.</p>

SPR09-13

Name Change: Confidential Name Change Rules and Forms (adopt Cal. Rules of Court, rules 2.575, 2.576, and 2.577; (adopt forms NC-400, NC-400-INFO, NC-410, and NC-420; approve form NC-425; and revise form NC-100)

All comments are verbatim unless indicated by an asterisk (*).

	Commentator	Position	Comment	Committee Response
			<p><u>to File Documents Under Seal in Name Change Proceeding Under Address Confidentiality Program</u></p> <ul style="list-style-type: none"> Item 3c and 3d – the word “abuse” was changed to the word “assault.” CCP § 1277 uses the word “assault” and all of the other forms use “assault.” This appears to be the only place where “abuse” has been used and to remain consistent, as well as reflect the statute, it should be changed to assault. This form is extremely difficult to understand and would be more useful to self represented litigants if it were in plain language. Petitioners, who rarely ever have an attorney in a name change case, will not be able to understand what the form is asking on items 4-8, or if they do have a vague idea about what the item is asking, they will not be able to distinguish what the difference is between each item. This form, as well as the Information Sheet, seem to be worded very “legally” and it may better serve litigants and court staff if it were simplified and in plain language. 	<p>Item 3c has been corrected in response to this comment.</p> <p>The format of these new forms is consistent with the format used in the existing Name Change form series that the proposed forms will be used with. The committee will in the future consider changing the entire series of Name Change forms to plain language, but does not intend to recommend the change on a piecemeal basis.</p> <p>Further, the committee notes that items 4 through 8 on this form track the express language of the statute, which appears to come directly from the controlling Supreme Court case, <i>NBC Subsidiary (KNBC-TV), Inc. v. Superior Court</i> (1999) 20 Cal.4th 1178.</p>

SPR09-13

Name Change: Confidential Name Change Rules and Forms (adopt Cal. Rules of Court, rules 2.575, 2.576, and 2.577; (adopt forms NC-400, NC-400-INFO, NC-410, and NC-420; approve form NC-425; and revise form NC-100)

All comments are verbatim unless indicated by an asterisk (*).

	Commentator	Position	Comment	Committee Response
			<p>NC-425 – <u>Order on Application to File Documents Under Seal in Name Change Proceeding Under Address Confidentiality Program</u></p> <ul style="list-style-type: none"> Item 3, the word "day" was made plural to "days," for grammatical purposes. Item 4, like the Application, a few of the forms that were listed on the Confidential Cover Sheet are missing and have been added for consistency. There may be a reason behind them not including them, but it is suggested they be added for the same reasons as the Application. If the forms are not added, they will have to always be handwritten. 	<p>Item 3 has been modified as suggested.</p> <p>The form has been modified in light of this comment.</p>
9.	Trial Court Presiding Judges Advisory Committee/Court Executives Advisory Committee Joint Rules Subcommittee by Patrick Danna Court Services Analyst	A	No additional comments.	No response necessary.