

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.