

Invitation to Comment

Title	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)
Summary	Amendments to Code of Civil Procedure section 1277 enacted in Assembly Bill 2304 (Plescia) mandate that when a person seeks a name change based on abuse, stalking, or sexual assault <i>and</i> 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 contains the legislatively mandated rules of court and forms consistent with the requirements of the new statutory provisions.
Source	Civil and Small Claims Advisory Committee Hon. Dennis M. Perluss, Chair
Staff	Anne M. Ronan, Attorney, 415-865-8933, anne.ronan@jud.ca.gov.
Discussion	<p>Under prior Code of Civil Procedure section 1277, a certain level of confidentiality was provided to a name change petitioner who takes part 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 abuse. Under the current law, the proposed new name of such petitioner does 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 does not have to be published.</p> <p>Assembly Bill 2304, effective January 1, 2009, amends 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).)</p> <p>In addition, Assembly Bill 2304 provides that a participant in the Safe at Home party may request that the court, in addition to keeping the</p>

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 set forth in the statute apply in a particular case.

This proposal includes new rules and forms to facilitate both 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 name of 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 petitioner; the *Confidential Cover Sheet* will not. The cover sheet will contain the case number (once assigned) and name and address of counsel (if there is one), and will identify what document 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 via 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 *Petition for Change of Name* (form NC-100).¹ It also provides new information

¹ 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 information sheet.

reflecting the added protections under AB 2304, including the procedures for seeking leave to file the petition under seal.

Proposed rule 2.576 sets out how the confidentiality provided to the court records of petitioner's name can be terminated and provides that a request for termination of the confidentiality must be made by noticed motion.

Applications to file records under seal

Proposed rule 2.577 and the remaining proposed forms are legislatively mandated to implement the statutory provision that a petitioner in a 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 a 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 a 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 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 California Rules of Court, rule 2.550 et seq. (Proposed rule 2.577(a).)

An optional form order 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) differs from the rules of court regarding sealing in other types of cases (cf. rule 2.550) in that it does not require the court to make express findings of fact that establish each of the factors in order to permit the records to be filed under seal. Hence the proposed order simply sets forth each of the factors, with check boxes to indicate whether the court has found the factor to apply 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).) However, if the court has not, in preparing to rule on the application to file under seal, already performed the tasks that are required before the confidential name change decree can be granted, i.e., confirming membership in the confidential address program and confirming that the petitioner is not a registered sex offender, 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).)

Attachments

Invitation to Comment

Rule 2.575, 2.576, and 2.577 of the California Rules of Court would be adopted, effective January 1, 2010, to read:

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Chapter 5.
Name Change Proceedings Under Address Confidentiality Program

Rule 2.575. Confidential information in name change proceedings under address confidentiality program

(a) Definitions

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

- (1) “Confidential name change petitioner” means a petitioner who is a participant in the address confidentiality program created by the Secretary of State under chapter 3.1 (commencing with section 6205) of division 7 of title 1 of the Government Code.
- (2) “Record” means all or a portion of any document, paper, exhibit, transcript , or other thing that is filed or lodged with the court.
- (3) “Lodged” means temporarily placed or deposited with the court, but not filed.

(b) Application of chapter

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

- (1) The petitioner is seeking to avoid domestic violence, as defined in Family Code section 6211.
- (2) The petitioner is seeking to avoid stalking, as defined in Penal Code section 646.9.
- (3) The petitioner is, or is filing on behalf of, a victim of sexual assault, as defined in Evidence Code section 1036.2.

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

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

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

12
13 For a confidential name change petitioner’s current name to be kept
14 confidential, petitioner must affix a completed *Confidential Cover Sheet—*
15 *Name Change Proceeding Under Address Confidentiality Program (Safe at*
16 *Home)* (form NC-400) to the first page of the petition and every other paper
17 filed in the name change proceedings. The name of petitioner should not
18 appear on that cover sheet.

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

21
22 The proposed name of a confidential name change petitioner is confidential
23 under Code of Civil Procedure section 1722(b) and should not be included
24 on the petition for name change or any other records in the proceedings. In
25 any form that calls for petitioner’s proposed name, the confidential name
26 change 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 address confidentiality program.

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

31
32 **(a) Termination of confidentiality**

33
34 The current name of confidential name change petitioner must remain
35 confidential until a determination is made that:

- 36
37 (1) Petitioner’s participation in the address confidentiality program has
38 ended under Government Code section 6206.7; or
39
40 (2) The court finds by clear and convincing evidence that the allegations
41 of domestic violence or stalking in the petition are false.

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

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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 personnel, as set forth in Government Code
6 section 6206(a)(5)(A).
7
8

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

11 **(a) Court approval required**

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

17 **(b) Application to file records in confidential name change proceedings**
18 **under seal**

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

27 **(c) Confidentiality**

28 The application to file under seal must be kept confidential by the court
29 until the court rules on it.

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

- 31 (1) The records that may be filed under seal must be lodged with the
32 court in a sealed envelope.
33
34 (2) The petitioner must complete and affix to the envelope a completed
35 *Confidential Cover Sheet—Name Change Proceeding Under*
36 *Address Confidentiality Program (Safe at Home)* (form NC-400),
37 and in the space under the title and case number mark it
38 “*CONDITIONALLY UNDER SEAL.*”
39

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

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

10
11 **(e) Consideration of application to file under seal**

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

14 (1) There exists an overriding interest that overcomes the right of public
15 access to the record.

16
17 (2) The overriding interest supports sealing the record.

18
19 (3) A substantial probability exists that the overriding interest will be
20 prejudiced if the record is not sealed.

21
22 (4) The proposed order to seal the record is narrowly tailored.

23
24 (5) No less restrictive means exist to achieve the overriding interest.

25
26 **(f) Order**

27
28 (1) The order may be issued on *Order on Application to File Documents*
29 *Under Seal in Name Change Proceeding Under Address*
30 *Confidentiality Program (Safe at Home)* (form NC-425).

31
32 (2) If the court grants an order sealing a record, the clerk must substitute
33 on the envelope or container for the label required by (d)(2) a label
34 prominently stating "SEALED BY ORDER OF THE COURT ON
35 (DATE)," and must replace the cover sheet required by (d)(2) with a
36 filed-endorsed copy of the court's order.

37
38 (3) Any order granting the application to seal must state whether the
39 declaration in support of the application, the order itself, and any

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> _____	<p style="text-align: center;"><i>FOR COURT USE ONLY</i></p> <p style="text-align: center;">DRAFT V.3 03.25.09</p> <p style="text-align: center;">NOT APPROVED BY JUDICIAL COUNCIL</p>
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. 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* (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 DRAFT v3 03.25.09 NOT APPROVED BY JUDICIAL COUNCIL
SUPERIOR COURT OF CALIFORNIA, COUNTY OF _____ STREET ADDRESS: _____ MAILING ADDRESS: _____ CITY AND ZIP CODE: _____ BRANCH NAME: _____	
PETITION OF (Name of each petitioner): <p align="center">[CONFIDENTIAL]</p>	
CONFIDENTIAL COVER SHEET—NAME CHANGE PROCEEDING UNDER ADDRESS CONFIDENTIALITY PROGRAM (SAFE AT HOME)	CASE NUMBER: _____

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 (a) is petitioning to avoid domestic violence, (b) is petitioning to avoid stalking, or (c) 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 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).)

1. The documents to which this cover sheet is affixed (check all that apply):
- 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)
 - c. Order to Show Cause for Change of Name (form NC-120)
 - d. Decree Changing Name (form NC-130)
 - e. Civil Case Cover Sheet (form CM-010)
 - f. Application to File Documents Under Seal in Name Change Proceeding Under Address Confidentiality Program (Safe at Home) (form NC-410)
 - g. Declaration in Support of Application to File Documents Under Seal in Name Change Proceedings Under Confidentiality Program (form NC-420)
 - h. Order on Application to File Documents Under Seal in Name Change Proceeding Under Address Confidentiality Program (Safe at Home) (form NC-425)
 - i. Other (describe): _____

Date: _____

The name of petitioner is to remain confidential UNLESS:

- a. Petitioner's participation in the address confidentiality program is ended (Gov. Code, § 6206.7); or
- b. 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).)

**INFORMATION SHEET FOR NAME CHANGE PROCEEDINGS
UNDER ADDRESS CONFIDENTIALITY PROGRAM (SAFE AT HOME)**

1. Confidentiality in Name Change Proceedings

The law provides confidentiality for a petitioner seeking a name change who is a participant in the Secretary of State's address confidentiality program under Government Code section 6205 et seq., the Safe at Home program, *and* who asserts reasons for a name change that include (a) seeking to avoid domestic violence, (b) seeking to avoid stalking, or (c) 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 may 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. How to Get Started

Before beginning the court process for a name change, petitioner 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 that program to show to the court to confirm participation in the confidential address program. Petitioner can reach the Safe at Home program by calling toll free number at 1-877-322-5227 or by going to the web site at www.casafeathome.org.

3. 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.

4. 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).

5. 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), instead of including the proposed new name, indicate that it is confidential and on file with the Secretary of State.
- b. In the attachment to the petition, *Name and Information About the Person Whose Name Is to Be Changed* (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 Proceedings Under Address Confidentiality Program (Safe at Home)* (form NC-400). Do not include petitioner's current name on those forms. These forms will flag the documents as containing confidential information.

Take a copy of the letter from the Safe at Home program to the court when filing the petition, to confirm that petitioner is in the address confidentiality program and has a Notice of Intent of Name Change on file.

6. Filing and Filing Fee

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) and any other document you file under that item.

7. 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 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.

8. 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 petitioners do not have to publish the order if they are participants in the address confidentiality program and the petition alleges that they are (a) petitioning to avoid domestic violence, (b) petitioning to avoid stalking, or (c) the petitioner is, or is filing on behalf of, a victim of sexual assault.

9. Name Change for Children

A petitioner in the confidential address program must comply with all the rules set forth 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.

10. **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.

11. **Application to File Documents Under Seal**

If a petitioner in the confidential address program believes that the protections described above and required by law keeping the current and future name confidential are not sufficient in a particular case, 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, petitioner must show facts to support the following findings by the court:

- a. There is an overriding interest that overcomes the right of public access to the record.
- b. That overriding interest supports sealing the name change documents.
- c. A substantial probability exists that the overriding interest will be prejudiced if the record is not sealed.
- d. The proposed order to seal the records is narrowly tailored to protect that overriding interest.
- e. 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 California Rules of Court, rule 2.577. The application must be made on *the Application to File Documents Under Seal in Name Change Proceedings 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 Proceedings 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 the petitioner wants 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 petitioner files written notice within 10 days of the denial that they should be filed unsealed.

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.

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): TELEPHONE NO.: _____ FAX NO. (Optional): _____ E-MAIL ADDRESS (Optional): _____ ATTORNEY FOR (Name): _____	<p style="text-align: center;"><i>FOR COURT USE ONLY</i></p> <p style="text-align: center;">DRAFT v3 04/08/09</p> <p style="text-align: center;">NOT APPROVED BY JUDICIAL COUNCIL</p>
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
PETITION OF (Name of each petitioner):	
APPLICATION TO FILE DOCUMENTS UNDER SEAL IN NAME CHANGE PROCEEDING UNDER ADDRESS CONFIDENTIALITY PROGRAM (SAFE AT HOME)	CASE NUMBER:

Before you complete this petition, you should read the *Instructions for Filing Petition for Change of Name Under Address Confidentiality Program*, form NC-400-INFO. You must file a *Declaration in Support of Application to File a Petition for Change of Name Under Seal* (form NC-420) with this application. You must file this application and the petition in the superior court of the county where the person whose name is to be changed resides.

- Petitioner (name): _____ is a participant in the Secretary of State's address confidentiality program under Government Code sections 6205–6211, and is alleging one of the following as a reason for the name change: (a) seeking to avoid domestic violence, (b) seeking to avoid stalking, or (c) is, or is filing on behalf of, a victim of sexual assault.
- Petitioner requests that the court file the following documents under seal:
 - Petition for Change of Name* (form NC-100)
 - Name and Information About the Person Whose Name Is to Be Changed (Attachment to Petition)* (form NC-110)
 - Order to Show Cause for Change of Name* (form NC-120)
 - Declaration in Support of Application to File Documents Under Seal in Name Change Proceedings Under Address Confidentiality Program (Safe at Home)* (form NC-420)
 - Order on Application to File Documents Under Seal in Name Change Proceedings Under Address Confidentiality Program (Safe at Home)* (form NC-425)
 - Other (specify): _____
- The facts that support this petition to file the documents checked above under seal are set forth in the *Declaration in Support of Application to File Documents Under Seal In Name Change Proceedings Under Address Confidentiality Program (Safe at Home)* (form NC-420).
- Petitioner has completed each of the documents checked above, placed them in a sealed envelope, and is lodging the envelope with the court along with this application.

Date:

(TYPE OR PRINT NAME)



(SIGNATURE OF ATTORNEY OR PETITIONER WITHOUT ATTORNEY)

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> _____	<p style="text-align: center;"><i>FOR COURT USE ONLY</i></p> <p style="text-align: center;">DRAFT v.4 04.08.09</p> <p style="text-align: center;">NOT APPROVED BY JUDICIAL COUNCIL</p>
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
PETITION OF <i>(Name of each petitioner):</i>	
<p style="text-align: center;">DECLARATION IN SUPPORT OF APPLICATION TO FILE DOCUMENTS UNDER SEAL IN NAME CHANGE PROCEEDING UNDER ADDRESS CONFIDENTIALITY PROGRAM (SAFE AT HOME)</p>	CASE NUMBER:

I *(name)*: _____ declare as follows:

1. I have personal knowledge of the facts stated in this declaration and could and would testify competently to those facts.
2. I am a participant in the Secretary of State's address confidentiality program.
3. I am seeking a name change *(check all that apply)*:
 - a. To avoid domestic violence.
 - b. To avoid stalking.
 - c. Because I am a victim of sexual abuse.
 - d. On behalf of *(name)*: _____ who is a victim of sexual abuse.
4. Facts showing that there is an overriding interest that overcomes the right of public access to the records in this name change proceeding are *(specify)*:

Continued on Attachment 4 *(If you need more space, attach form MC-025.)*

5. Facts showing that the overriding interest described in item 4 supports filing the documents in this name change proceeding under seal are *(specify)*:

Continued on Attachment 5. *(If you need more space, attach form MC-025.)*

PETITIONER:	CASE NUMBER:
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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 (*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 (*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)

ATTORNEY (Name, State Bar number, and address): TELEPHONE NO.: _____ FAX NO. (Optional): _____ E-MAIL ADDRESS (Optional): _____ ATTORNEY FOR (Name): [CONFIDENTIAL]	<p style="text-align: center;"><i>FOR COURT USE ONLY</i></p> <p style="text-align: center;">DRAFT v4 04.16.09</p> <p style="text-align: center;">NOT APPROVED BY JUDICIAL COUNCIL</p>
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>	
<p style="text-align: center;">ORDER ON APPLICATION TO FILE DOCUMENTS UNDER SEAL IN NAME CHANGE PROCEEDING UNDER ADDRESS CONFIDENTIALITY PROGRAM (SAFE AT HOME)</p>	CASE NUMBER:

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

THE COURT FINDS

2. a. As to whether the following factors apply to the documents for which leave to file under seal has been requested:
- (1) An overriding interest that overcomes the right of public access to the record does does not exist.
 - (2) The overriding interest does does not support sealing the record.
 - (3) A substantial probability does does not exist that the overriding interest will be prejudiced if the record is not sealed.
 - (4) The proposed order to seal this record is is not narrowly tailored.
 - (5) A less restrictive means to achieve the overriding interest does not does exist.
- b. Other findings (if any):

THE COURT ORDERS

- 3. The application to file documents under seal is **denied**. The documents will be returned to petitioner unless petitioner informs the clerk of the court within 10 day that petitioner wants the unsealed documents to be filed.
- 4. The application to file documents under seal is **granted**. The following documents may be filed under seal:
 - 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)
 - c. *Order to Show Cause for Change of Name* (form NC-120)
 - d. *Application to File Documents Under Seal in name change Proceeding under Address Confidentiality Program (Safe at Home)* (form NC-410)
 - e. *Declaration in Support of Application to File Documents Under Seal in Name Change Proceeding Under Address Confidentiality Program (Safe at Home)* (form NC-420)
 - f. *Order on Application to File Documents Under Seal in Name Change Proceeding Under Address Confidentiality Program (Safe at Home)* (form NC-425)
 - g. Other (specify):
- 5. Other order (if any):

Date: _____

JUDGE OF THE SUPERIOR COURT

Item SPR09-13 Response Form

Title: **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)

- Agree** with proposed changes
- Agree** with proposed changes **if modified**
- Do not agree** with proposed changes

Comments: _____

Name: _____ **Title:** _____

Organization: _____

- Commenting on behalf of an organization**

Address: _____

City, State, Zip: _____

To Submit Comments

Comments may be submitted online, written on this form, or prepared in a letter format. If you are *not* commenting directly on this form, please include the information requested above and the proposal number for identification purposes. Please submit your comments online or email, mail, or fax comments. You are welcome to email your comments as an attachment.

Internet: <http://www.courtinfo.ca.gov/invitationstocomment/>

Email: invitations@jud.ca.gov

Mail: Ms. Camilla Kieliger
Judicial Council, 455 Golden Gate Avenue
San Francisco, CA 94102

Fax: (415) 865-7664, Attn: Camilla Kieliger

DEADLINE FOR COMMENT: 5:00 p.m., Wednesday, June 17, 2009

Circulation for comment does not imply endorsement by the Judicial Council or the Rules and Projects Committee. All comments will become part of the public record of the council's action.