

AMENDED IN SENATE JANUARY 22, 2014

AMENDED IN SENATE JANUARY 6, 2014

AMENDED IN SENATE APRIL 1, 2013

SENATE BILL

No. 545

Introduced by Senator Anderson

February 22, 2013

An act to amend Section 1277 of the Code of Civil Procedure, relating to civil procedure.

LEGISLATIVE COUNSEL'S DIGEST

SB 545, as amended, Anderson. Name change: minors.

~~(1) Existing law establishes the procedure for a person to change his or her name. When a proceeding for a change of name is commenced by the filing of a petition, existing law requires the court to issue an order reciting the filing of the petition, the name of the person by whom it is filed, and the name proposed, except as specified. In the case of a petition filed by a parent for the name change of a person under 18 years of age, existing law requires a minor's nonconsenting parent to be served with notice of the time and place of the hearing, as specified.~~

~~This bill would authorize a court to waive the requirements for publication and notice to a nonconsenting parent if necessary to protect the best interests of the minor upon a showing by the petitioner that the minor and petitioner are participants in a specified address confidentiality program, that the petitioner has sole custody of the minor, as specified, that the child is protected by an order pursuant to the Domestic Violence Prevention Act that prevents the nonpetitioning parent from having contact with the minor for at least 5 years, and that~~

~~the nonpetitioning parent is not subject to an order to pay child support for the minor.~~

~~(2) Existing~~

Existing law provides that if a petition for a change of name alleges a specified reason or circumstance and the petitioner is a participant in a specified address confidentiality program, the action for a change of name is exempt from the publication requirement.

This bill would provide that in order for the action for a change of name to be exempt from the publication requirement, the petitioner would also be required to establish that the name he or she is seeking to acquire is on file with the Secretary of State.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1277 of the Code of Civil Procedure, as
 2 added by Section 2 of Chapter 651 of the Statutes of 2013, is
 3 amended to read:
 4 1277. (a) (1) If a proceeding for a change of name is
 5 commenced by the filing of a petition, except as provided in
 6 subdivisions (b), (c), and (e), the court shall thereupon make an
 7 order reciting the filing of the petition, the name of the person by
 8 whom it is filed, and the name proposed. The order shall direct all
 9 persons interested in the matter to appear before the court at a time
 10 and place specified, which shall be not less than 6 weeks nor more
 11 than 12 weeks from the time of making the order, unless the court
 12 orders a different time, to show cause why the application for
 13 change of name should not be granted. The order shall direct all
 14 persons interested in the matter to make known any objection that
 15 they may have to the granting of the petition for change of name
 16 by filing a written objection, which includes the reasons for the
 17 objection, with the court at least two court days before the matter
 18 is scheduled to be heard and by appearing in court at the hearing
 19 to show cause why the petition for change of name should not be
 20 granted. The order shall state that, if no written objection is timely
 21 filed, the court may grant the petition without a hearing. If the
 22 petition seeks to conform the petitioner’s name to his or her gender
 23 identity and no objection is timely filed, the court shall grant the
 24 petition without a hearing.

1 (2) A copy of the order to show cause shall be published
2 pursuant to Section 6064 of the Government Code in a newspaper
3 of general circulation to be designated in the order published in
4 the county. If no newspaper of general circulation is published in
5 the county, a copy of the order to show cause shall be posted by
6 the clerk of the court in three of the most public places in the
7 county in which the court is located, for a like period. Proof shall
8 be made to the satisfaction of the court of this publication or
9 posting, at the time of the hearing of the application.

10 (3) Four weekly publications shall be sufficient publication of
11 the order to show cause. If the order is published in a daily
12 newspaper, publication once a week for four successive weeks
13 shall be sufficient.

14 (4) If a petition has been filed for a minor by a parent and the
15 other parent, if living, does not join in consenting thereto, the
16 petitioner shall cause, not less than 30 days prior to the hearing,
17 to be served notice of the time and place of the hearing or a copy
18 of the order to show cause on the other parent pursuant to Section
19 413.10, 414.10, 415.10, or 415.40. If notice of the hearing cannot
20 reasonably be accomplished pursuant to Section 415.10 or 415.40,
21 the court may order that notice be given in a manner that the court
22 determines is reasonably calculated to give actual notice to the
23 nonconsenting parent. In that case, if the court determines that
24 notice by publication is reasonably calculated to give actual notice
25 to the nonconsenting parent, the court may determine that
26 publication of the order to show cause pursuant to this subdivision
27 is sufficient notice to the nonconsenting parent. ~~A court may waive~~
28 ~~the requirements of this paragraph for publication and notice if~~
29 ~~necessary to protect the best interests of the minor upon a showing~~
30 ~~by the petitioner of all of the following:~~

31 ~~(A) The minor and the petitioner are participants in the address~~
32 ~~confidentiality program created pursuant to Chapter 3.1~~
33 ~~(commencing with Section 6205) of Division 7 of Title 1 of the~~
34 ~~Government Code.~~

35 ~~(B) A court has issued a final order awarding the petitioner sole~~
36 ~~legal and physical custody of the minor and the custodial parent~~
37 ~~has terminated the parental rights of the non-custodial parent.~~

38 ~~(C) The minor is protected by an order issued after a hearing~~
39 ~~pursuant to the Domestic Violence Prevention Act of Division 10~~
40 ~~(commencing with Section 6200) of the Family Code that prevents~~

1 ~~the nonpetitioning parent, for a period of at least five years, from~~
2 ~~having any contact with the minor.~~

3 ~~(D) The nonpetitioning parent is not subject to an order to pay~~
4 ~~child support for the minor whose name is proposed to be changed.~~

5 (5) If the petition for a change of name is sought in order to
6 conform the petitioner's name to his or her gender identity, the
7 action for a change of name is exempt from the requirement for
8 publication of the order to show cause under this subdivision.

9 (b) (1) If the petition for a change of name alleges a reason or
10 circumstance described in paragraph (2), and the petitioner has
11 established that he or she is an active participant in the address
12 confidentiality program created pursuant to Chapter 3.1
13 (commencing with Section 6205) of Division 7 of Title 1 of the
14 Government Code, and that the name he or she is seeking to acquire
15 is on file with the Secretary of State, the action for a change of
16 name is exempt from the requirement for publication of the order
17 to show cause under subdivision (a), and the petition and the order
18 of the court shall, in lieu of reciting the proposed name, indicate
19 that the proposed name is confidential and is on file with the
20 Secretary of State pursuant to the provisions of the address
21 confidentiality program.

22 (2) The procedure described in paragraph (1) applies to petitions
23 alleging any of the following reasons or circumstances:

24 (A) To avoid domestic violence, as defined in Section 6211 of
25 the Family Code.

26 (B) To avoid stalking, as defined in Section 646.9 of the Penal
27 Code.

28 (C) The petitioner is, or is filing on behalf of, a victim of sexual
29 assault, as defined in Section 1036.2 of the Evidence Code.

30 (3) For any petition under this subdivision, the current legal
31 name of the petitioner shall be kept confidential by the court and
32 shall not be published or posted in the court's calendars, indexes,
33 or register of actions, as required by Article 7 (commencing with
34 Section 69840) of Chapter 5 of Title 8 of the Government Code,
35 or by any means or in any public forum, including a hardcopy or
36 an electronic copy, or any other type of public media or display.

37 (4) Notwithstanding paragraph (3), the court may, at the request
38 of the petitioner, issue an order reciting the name of the petitioner
39 at the time of the filing of the petition and the new legal name of
40 the petitioner as a result of the court's granting of the petition.

1 (5) A petitioner may request that the court file the petition and
2 any other papers associated with the proceeding under seal. The
3 court may consider the request at the same time as the petition for
4 name change, and may grant the request in any case in which the
5 court finds that all of the following factors apply:

6 (A) There exists an overriding interest that overcomes the right
7 of public access to the record.

8 (B) The overriding interest supports sealing the record.

9 (C) A substantial probability exists that the overriding interest
10 will be prejudiced if the record is not sealed.

11 (D) The proposed order to seal the records is narrowly tailored.

12 (E) No less restrictive means exist to achieve the overriding
13 interest.

14 (c) A proceeding for a change of name for a witness participating
15 in the state Witness Protection Program established by Title 7.5
16 (commencing with Section 14020) of Part 4 of the Penal Code
17 who has been approved for the change of name by the program is
18 exempt from the requirement for publication of the order to show
19 cause under subdivision (a).

20 (d) If an application for change of name is brought as part of
21 an action under the Uniform Parentage Act (Part 3 (commencing
22 with Section 7600) of Division 12 of the Family Code), whether
23 as part of a petition or cross-complaint or as a separate order to
24 show cause in a pending action thereunder, service of the
25 application shall be made upon all other parties to the action in a
26 like manner as prescribed for the service of a summons, as set forth
27 in Article 3 (commencing with Section 415.10) of Chapter 4 of
28 Title 5 of Part 2. Upon the setting of a hearing on the issue, notice
29 of the hearing shall be given to all parties in the action in a like
30 manner and within the time limits prescribed generally for the type
31 of hearing (whether trial or order to show cause) at which the issue
32 of the change of name is to be decided.

33 (e) If a guardian files a petition to change the name of his or her
34 minor ward pursuant to Section 1276:

35 (1) The guardian shall provide notice of the hearing to any living
36 parent of the minor by personal service at least 30 days prior to
37 the hearing.

38 (2) If either or both parents are deceased or cannot be located,
39 the guardian shall cause, not less than 30 days prior to the hearing,
40 to be served a notice of the time and place of the hearing or a copy

- 1 of the order to show cause on the child's grandparents, if living,
- 2 pursuant to Section 413.10, 414.10, 415.10, or 415.40.
- 3 (f) This section shall become operative on July 1, 2014.

O