

Assembly Bill No. 205

CHAPTER 33

An act to amend Sections 1277 and 1278 of the Code of Civil Procedure, and to amend Sections 6205, 6205.5, 6206.5, 6206.7, 6208, and 6210 of, and to add Section 6206.4 to, the Government Code, relating to domestic violence.

[Approved by Governor June 9, 2000. Filed with
Secretary of State June 9, 2000.]

LEGISLATIVE COUNSEL'S DIGEST

AB 205, Leach. Domestic violence: name change.

Existing law requires a court in an action for a change of name to publicize the petition and the name of the petitioner, as specified. Existing law also establishes a program to provide for the confidentiality of the address of victims of domestic violence. Under the program, a victim or a person acting on behalf of a minor or incapacitated person may apply to have an address designated by the Secretary of State serve as the person's address for various purposes, including service of process. Under existing law if a program participant obtains a name change, he or she loses certification as a program participant. Existing law also requires the Secretary of State to report to the Legislature regarding the confidentiality program for victims of domestic violence, as specified.

This bill would provide that when a person who is a participant in the domestic violence confidentiality program brings a petition for a change of name, the petition, the order of the court, and the copy of the order to be published, shall indicate, in lieu of the proposed name, that the name is confidential and on file with the Secretary of State. This bill would further require that the Secretary of State keep confidential the name changes made by participants in the confidentiality program, and that the Secretary of State may cancel a person's certification in the program if the person changes his or her name and fails to notify the Secretary of State within 7 days of the change. This bill would also eliminate provisions that allow the Secretary of State to disclose information about a participant in the confidentiality program when the person is terminated from the program. This bill would also provide that a program participant's changed name shall not be available for inspection and copying, except as specified. This bill would further require the Secretary of State to report to the Legislature the number of program participants who obtained a confidential name change, as specified. The bill would make additional, related changes to take effect only if SB 1318 is chaptered and becomes operative, as specified.

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

SECTION 1. Section 1277 of the Code of Civil Procedure is amended to read:

1277. (a) Where an action for a change of name is commenced by the filing of a petition, except as provided in subdivision (b), the court shall thereupon make an order reciting the filing of the petition, the name of the person by whom it is filed and the name proposed, and directing all persons interested in the matter to appear before the court at a time and place specified, which shall be not less than four or more than eight weeks from the time of making the order, to show cause why the application for change of name should not be granted. A copy of the order to show cause shall be published pursuant to Section 6064 of the Government Code in a newspaper of general circulation to be designated in the order published in the county. If no newspaper of general circulation is published in the county, a copy of the order to show cause shall be posted by the clerk of the court in three of the most public places in the county in which the court is located, for a like period. Proof shall be made to the satisfaction of the court of this publication or posting, at the time of the hearing of the application.

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

Where a petition has been filed for a minor and the other parent, if living, does not join in consenting thereto, the petitioner shall cause, not less than 30 days prior to the hearing, to be served notice of the time and place of the hearing or a copy of the order to show cause on the other parent pursuant to Section 413.10, 414.10, 415.10, or 415.40.

(b) Where the petition for a change of name alleges that the reason for the petition is to avoid domestic violence, as defined in Section 6211 of the Family Code, and the petitioner is a participant in the address confidentiality program created pursuant to Chapter 3.1 (commencing with Section 6205) of Division 7 of Title 1 of the Government Code, the petition, the order of the court, and the copy published pursuant to subdivision (a) shall, in lieu of reciting the proposed name, indicate that the proposed name is confidential and will be on file with the Secretary of State pursuant to the provisions of the address confidentiality program.

(c) Where application for change of name is brought as part of an action under the Uniform Parentage Act (Part 3 (commencing with Section 7600) of Division 12 of the Family Code), whether as part of a petition or cross-complaint or as a separate order to show cause in a pending action thereunder, service of the application shall be made upon all other parties to the action in a like manner as prescribed for the service of a summons, as is set forth in Article 3 (commencing



with Section 415.10) of Chapter 4 of Title 5 of Part 2. Upon the setting of a hearing on the issue, notice of the hearing shall be given to all parties in the action in a like manner and within the time limits prescribed generally for the type of hearing (whether trial or order to show cause) at which the issue of the change of name is to be decided.

SEC. 1.5. Section 1277 of the Code of Civil Procedure is amended to read:

1277. (a) Where an action for a change of name is commenced by the filing of a petition, except as provided in subdivision (b), the court shall thereupon make an order reciting the filing of the petition, the name of the person by whom it is filed and the name proposed, and directing all persons interested in the matter to appear before the court at a time and place specified, which shall be not less than four or more than eight weeks from the time of making the order, to show cause why the application for change of name should not be granted. A copy of the order to show cause shall be published pursuant to Section 6064 of the Government Code in a newspaper of general circulation to be designated in the order published in the county. If no newspaper of general circulation is published in the county, a copy of the order to show cause shall be posted by the clerk of the court in three of the most public places in the county in which the court is located, for a like period. Proof shall be made to the satisfaction of the court of this publication or posting, at the time of the hearing of the application.

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

Where a petition has been filed for a minor and the other parent, if living, does not join in consenting thereto, the petitioner shall cause, not less than 30 days prior to the hearing, to be served notice of the time and place of the hearing or a copy of the order to show cause on the other parent pursuant to Section 413.10, 414.10, 415.10, or 415.40.

(b) Where the petition for a change of name alleges that the reason for the petition is to avoid domestic violence, as defined in Section 6211 of the Family Code, or stalking, as defined in Section 646.9 of the Penal Code, and the petitioner is a participant in the address confidentiality program created pursuant to Chapter 3.1 (commencing with Section 6205) of Division 7 of Title 1 of the Government Code, the petition, the order of the court, and the copy published pursuant to subdivision (a) shall, in lieu of reciting the proposed name, indicate that the proposed name is confidential and will be on file with the Secretary of State pursuant to the provisions of the address confidentiality program.

(c) Where application for change of name is brought as part of an action under the Uniform Parentage Act (Part 3 (commencing with



Section 7600) of Division 12 of the Family Code), whether as part of a petition or cross-complaint or as a separate order to show cause in a pending action thereunder, service of the application shall be made upon all other parties to the action in a like manner as prescribed for the service of a summons, as is set forth in Article 3 (commencing with Section 415.10) of Chapter 4 of Title 5 of Part 2. Upon the setting of a hearing on the issue, notice of the hearing shall be given to all parties in the action in a like manner and within the time limits prescribed generally for the type of hearing (whether trial or order to show cause) at which the issue of the change of name is to be decided.

SEC. 2. Section 1278 of the Code of Civil Procedure is amended to read:

1278. (a) Except as provided in subdivision (b), the application shall be heard at the time designated by the court, only if objections are filed by any person who can, in those objections, show to the court good reason against the change of name. At the hearing, the court may examine on oath any of the petitioners, remonstrants, or other persons, touching the application, and may make an order changing the name, or dismissing the application, as to the court may seem right and proper.

If no objection is filed the court may, without hearing, enter the order that the change of name is granted.

(b) Where the provisions of subdivision (b) of Section 1277 apply, the court shall not disclose the proposed name unless the court finds by clear and convincing evidence that the allegations of domestic violence in the petition are false.

(c) Where the application for a change of name is brought as part of an action under the Uniform Parentage Act (Part 3 (commencing with Section 7600) of Division 12 of the Family Code), the hearing on the issue of the change of name shall be conducted pursuant to statutes and rules of court governing those proceedings, whether the hearing is conducted upon an order to show cause or upon trial.

SEC. 2.5. Section 1278 of the Code of Civil Procedure is amended to read:

1278. (a) Except as provided in subdivision (b), the application shall be heard at the time designated by the court, only if objections are filed by any person who can, in those objections, show to the court good reason against the change of name. At the hearing, the court may examine on oath any of the petitioners, remonstrants, or other persons, touching the application, and may make an order changing the name, or dismissing the application, as to the court may seem right and proper.

If no objection is filed the court may, without hearing, enter the order that the change of name is granted.

(b) Where the provisions of subdivision (b) of Section 1277 apply, the court shall not disclose the proposed name unless the court finds



by clear and convincing evidence that the allegations of domestic violence or stalking in the petition are false.

(c) Where the application for a change of name is brought as part of an action under the Uniform Parentage Act (Part 3 (commencing with Section 7600) of Division 12 of the Family Code), the hearing on the issue of the change of name shall be conducted pursuant to statutes and rules of court governing those proceedings, whether the hearing is conducted upon an order to show cause or upon trial.

SEC. 3. Section 6205 of the Government Code is amended to read:

6205. The Legislature finds that persons attempting to escape from actual or threatened domestic violence frequently establish new names or addresses in order to prevent their assailants or probable assailants from finding them. The purpose of this chapter is to enable state and local agencies to respond to requests for public records without disclosing the changed name or location of a victim of domestic violence, to enable interagency cooperation with the Secretary of State in providing name and address confidentiality for victims of domestic violence, and to enable state and local agencies to accept a program participant's use of an address designated by the Secretary of State as a substitute mailing address.

SEC. 4. Section 6205.5 of the Government Code is amended to read:

6205.5. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(a) "Address" means a residential street address, school address, or work address of an individual, as specified on the individual's application to be a program participant under this chapter.

(b) "Domestic violence" means an act as defined in Section 6211 of the Family Code.

(c) "Program participant" means a person certified as a program participant under Section 6206.

SEC. 5. Section 6206.4 is added to the Government Code, to read:

6206.4. The Secretary of State shall keep confidential name changes of program participants obtained pursuant to subdivision (b) of Section 1277 of the Code of Civil Procedure. The Secretary of State shall have the same responsibilities and obligations to program participants who have obtained a name change as to any other program participant under this chapter.

SEC. 6. Section 6206.5 of the Government Code is amended to read:

6206.5. (a) The Secretary of State may cancel a program participant's certification if there is a change in the residential address from the one listed on the application, unless the program participant provides the Secretary of State with at least seven days' prior notice of the change of address.



(b) The Secretary of State may cancel a program participant's certification if the program participant changes his or her name from the one listed in the application and fails to notify the Secretary of State of the name change within seven days of the change.

(c) The Secretary of State may cancel certification of a program participant if mail forwarded by the secretary to the program participant's address is returned as nondeliverable.

(d) The Secretary of State shall cancel certification of a program participant who applies using false information.

(e) Any records or documents pertaining to a program participant shall be retained and held confidential for a period of three years after termination of certification and then destroyed.

SEC. 7. Section 6206.7 of the Government Code is amended to read:

6206.7. (a) A program participant may withdraw from program participation by submitting to the address confidentiality program manager written notification of withdrawal and his or her current identification card. Certification shall be terminated on the date of receipt of this notification.

(b) The address confidentiality program manager may terminate a program participant's certification and invalidate his or her authorization card for any of the following reasons:

(1) The program participant's certification term has expired and certification renewal has not been completed.

(2) The address confidentiality program manager has determined that false information was used in the application process or that participation in the program is being used as a subterfuge to avoid detection of illegal or criminal activity or apprehension by law enforcement.

(3) The program participant no longer resides at the residential address listed on the application, and has not provided at least seven days' prior notice in writing of a change in address.

(4) A service of process document or mail forwarded to the program participant by the address confidentiality program manager is returned as nondeliverable.

(c) If termination is a result of paragraph (1), (3), or (4) of subdivision (b), the address confidentiality program manager shall send written notification of the intended termination to the program participant. The program participant shall have five business days in which to appeal the termination under procedures developed by the Secretary of State.

(d) The address confidentiality program manager shall notify in writing the county elections official and authorized personnel of the appropriate county clerk's office, county recording office, and department of health of the program participant's certification withdrawal, invalidation, expiration, or termination.



(e) Upon receipt of this termination notification, authorized personnel shall transmit to the address confidentiality program manager all appropriate administrative records pertaining to the program participant and the record transmitting agency is no longer responsible for maintaining the confidentiality of a terminated program participant's record.

SEC. 8. Section 6208 of the Government Code is amended to read:

6208. The Secretary of State may not make a program participant's address, other than the address designated by the Secretary of State, or a program participant's name change available for inspection or copying, except under any of the following circumstances:

- (a) If requested by a law enforcement agency, to the law enforcement agency.
- (b) If directed by a court order, to a person identified in the order.
- (c) If certification has been canceled.

SEC. 9. Section 6210 of the Government Code is amended to read:

6210. (a) Notwithstanding Section 7550.5, the Secretary of State shall submit to the Legislature, no later than January 10 of each year, a report that includes the total number of applications received for the program established by this chapter. The report shall disclose the number of program participants within each county and shall also describe any allegations of misuse relating to election purposes.

(b) The Secretary of State shall commence accepting applications and other activities under this program on July 1, 1999.

(c) Notwithstanding Section 7550.5, the Secretary of State shall submit to the Legislature by January 1, 2004, a report that includes the total number of pieces of mail forwarded to program participants, the number of program participants during the program's duration, the number of program participants who obtained a confidential name change pursuant to subdivision (b) of Section 1277 of the Code of Civil Procedure, the average length of time a participant remains in the program, and the targeted code changes needed to improve the program's efficiency and cost-effectiveness.

SEC. 10. Sections 1.5 and 2.5 of this act shall take effect and become operative only if Senate Bill 1318 of the 1999–2000 Regular Session is enacted and the amendments to Sections 6205, 6205.5, 6206, 6208.5, and 6209.7 of the Government Code proposed by that bill become operative, in which case Sections 1 and 2 of this act shall not become operative.

