

Assembly Bill No. 2155

CHAPTER 111

An act to amend Sections 1276 , 1277, and 1278 of the Code of Civil Procedure, relating to change of names.

[Approved by Governor July 7, 2000. Filed with
Secretary of State July 10, 2000.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2155, Pescetti. Name change.

Existing law requires an application for a name change to be made to the superior court of the county where the person whose name is proposed to be changed resides by petition signed by the person, or if the person is under the age of 18, signed by one of the person's parents, if living, or if both parents are dead, then by the guardian of the person.

This bill would require applications for the change of the name of a minor submitted by a guardian appointed by the juvenile or probate court to be made in the appointing court. The bill would also authorize the guardian of a person who is under the age of 18 to petition the court for a name change regardless of whether one or both of the person's parents are living and require the guardian to provide notice of the petition to any living parent of the person by personal service at least 30 days prior to the hearing. The bill would specify the contents of a petition submitted by a guardian, and would specify the required findings by the court in order to grant the petition. It also would make related changes. The bill would also incorporate changes to Sections 1277 and 1278 of the Code of Civil Procedure proposed by AB 205, contingent upon its prior enactment and the operation of proposed versions of those sections, as specified.

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

SECTION 1. Section 1276 of the Code of Civil Procedure is amended to read:

1276. (a) All applications for change of names shall be made to the superior court of the county where the person whose name is proposed to be changed resides, except as specified in subdivision (c), either (1) by petition signed by the person or, if the person is under 18 years of age, either by one of the person's parents, or by any guardian of the person, or if both parents are dead and there is no guardian of the person, then by some near relative or friend of the person or (2) as provided in Section 7638 of the Family Code.

The petition or pleading shall specify the place of birth and residence of the person, his or her present name, the name proposed, and the reason for the change of name, and shall, if neither parent of the person has signed the petition, name, as far as known to the person proposing the name change, the parents of the person and their place of residence, if living, or if neither parent is living, near relatives of the person, and their place of residence.

(b) In an action for a change of name commenced by the filing of a petition:

(1) If the person whose name is proposed to be changed is under 18 years of age and the petition is signed by only one parent, the petition shall specify the address, if known, of the other parent if living. If the petition is signed by a guardian, the petition shall specify the name and address, if known, of the parent or parents, if living, or the grandparents, if the addresses of both parents are unknown or if both parents are deceased, of the person whose name is proposed to be changed.

(2) If the person whose name is proposed to be changed is 12 years of age or over, has been relinquished to an adoption agency by his or her parent or parents, and has not been legally adopted, the petition shall be signed by the person and the adoption agency to which the person was relinquished. The near relatives of the person and their place of residence shall not be included in the petition unless they are known to the person whose name is proposed to be changed.

(c) All applications for the change of the name of a minor submitted by a guardian appointed by the juvenile court or the probate court shall be made in the appointing court.

(d) If the petition is signed by a guardian, the petition shall specify relevant information regarding the guardianship, the likelihood that the child will remain under the guardian's care until the child reaches the age of majority and information suggesting that the child will not likely be returned to the custody of his or her parents.

SEC. 2. 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, 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 by a parent 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 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.

(c) Where a guardian files a petition to change the name of his or her minor ward pursuant to Section 1276:

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

(2) If either or both parents are deceased or cannot be located, the guardian shall cause, not less than 30 days prior to the hearing, to be served a notice of the time and place of the hearing or a copy of the order to show cause on the child's grandparents, if living, pursuant to Section 413.10, 414.10, 415.10, or 415.40.

SEC. 3. 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 by a parent 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.

(d) Where a guardian files a petition to change the name of his or her minor ward pursuant to Section 1276:

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

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



order to show cause on the child's grandparents, if living, pursuant to Section 413.10, 414.10, 415.10, or 415.40.

SEC. 4. 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 by a parent 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.

(d) Where a guardian files a petition to change the name of his or her minor ward pursuant to Section 1276:

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

(2) If either or both parents are deceased or cannot be located, the guardian shall cause, not less than 30 days prior to the hearing, to be served a notice of the time and place of the hearing or a copy of the order to show cause on the child's grandparents, if living, pursuant to Section 413.10, 414.10, 415.10, or 415.40.

SEC. 5. Section 1278 of the Code of Civil Procedure is amended to read:

1278. (a) Except as provided in subdivisions (b) and (c), 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 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.

(c) Where the application for a change of name is filed by a guardian on behalf of a minor ward, the court shall first find that the ward is likely to remain in the guardian's care until the age of majority and that the ward is not likely to be returned to the custody of his or her parents. Upon making such findings, the court shall consider the petition and may grant the petition only if it finds that the proposed name change is in the best interest of the child.

SEC. 6. Section 1278 of the Code of Civil Procedure is amended to read:

1278. (a) Except as provided in subdivisions (c) and (d), 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.

(d) Where the application for a change of name is filed by a guardian on behalf of a minor ward, the court shall first find that the ward is likely to remain in the guardian's care until the age of majority and that the ward is not likely to be returned to the custody of his or her parents. Upon making such findings, the court shall consider the petition and may grant the petition only if it finds that the proposed name change is in the best interest of the child.

SEC. 7. Section 1278 of the Code of Civil Procedure is amended to read:

1278. (a) Except as provided in subdivisions (c) and (d), 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.



(d) Where the application for a change of name is filed by a guardian on behalf of a minor ward, the court shall first find that the ward is likely to remain in the guardian's care until the age of majority and that the ward is not likely to be returned to the custody of his or her parents. Upon making such findings, the court shall consider the petition and may grant the petition only if it finds that the proposed name change is in the best interest of the child.

SEC. 8. Section 3 of this bill incorporates amendments to Section 1277 of the Code of Civil Procedure proposed by both this bill and Section 1 of AB 205. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2001, (2) each bill amends Section 1277 of the Code of Civil Procedure (3) Section 1.5 of AB 205 does not become operative, and (4) this bill is enacted after AB 205, in which case Sections 2 and 4 of this bill shall not become operative.

SEC. 9. Section 4 of this bill incorporates amendments to Section 1277 of the Code of Civil Procedure proposed by both this bill and Section 1.5 of AB 205. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2001, (2) each bill amends Section 1277 of the Code of Civil Procedure (3) Section 1.5 of AB 205 becomes operative, and (4) this bill is enacted after AB 205, in which case Sections 2 and 3 of this bill shall not become operative.

SEC. 10. Section 6 of this bill incorporates amendments to Section 1278 of the Code of Civil Procedure proposed by both this bill and Section 2 of AB 205. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2001, (2) each bill amends Section 1278 of the Code of Civil Procedure (3) Section 2.5 of AB 205 does not become operative, and (4) this bill is enacted after AB 205, in which case Sections 5 and 7 of this bill shall not become operative.

SEC. 11. Section 7 of this bill incorporates amendments to Section 1278 of the Code of Civil Procedure proposed by both this bill and Section 2.5 of AB 205. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2001, (2) each bill amends Section 1278 of the Code of Civil Procedure (3) Section 2.5 of AB 205 becomes operative, and (4) this bill is enacted after AB 205, in which case Sections 5 and 6 of this bill shall not become operative.

