



VIRGINIA
LEGAL AID
SOCIETY

CHANGE OF A CHILD'S NAME

This information describes ways that parents may change the name of their child under 18 years old. Enclosed is the Application for Change of Name (Child), and Order for Change of Name, which may help you do the job yourself. Also enclosed is the Virginia statute on change of name. Virginia Legal Aid Society does not have enough lawyers to represent people for name changes, and Virginia Legal Aid Society is not representing you by giving you this information.

In general, a child's name may be changed for any good reason as long as it's in the child's best interest. The way to change a child's name depends on the circumstances.

1. **IF CHILD TO GET REAL FATHER'S NAME.** If a child's parents were not married when the child was born, then the child may have been given the mother's last name. If both parents agree to change the child's last name to the name of the real father, then no court proceeding is required. Instead both parents must complete, under oath, an acknowledgement of paternity form available at your local health department. Send the form, a request for the change, the correct fee, and a copy of your marriage license if the mother and real father married after the birth of the child, to the State Registrar of Vital Records. They will send back an amended birth certificate that names the father and shows the child as having the father's last name. Using this procedure, of course, also makes the father responsible with the mother for the support of the child.

This procedure does not work if the child's original birth certificate names someone else as the father. In that case a paternity order must be obtained through the court.

2. **IF CHILD TO GET ANOTHER NAME BY AGREEMENT OF THE PARENTS.** Sometimes parents agree that a child's name should be changed to a name that is not the last name of the real father. This can be done by a simple court proceeding if the real mother and father agree.

The Application you need to complete to do this is enclosed. The Application asks the court to change the name. You must also complete and sign the Order for Change of Name for the judge to sign. The judge must sign the Order before the child's name is legally changed. Both parents

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must sign the Application in front of a Notary Public, and attach a copy of the child's birth certificate. (Local Health Departments have forms you may use to get a copy).

Once you have completed the application and the Order, you should take them to the clerk of the Circuit Court in the city or county in which you live. You should check with the clerk's office before going there to learn what hours they are open, how many copies you need to bring, and how much it will cost to file.

The court may require the parents to come to a hearing, so ask the clerk about local practice. If there is a hearing, the judge will probably sign the Order on the spot. If not, check back with the clerk in two weeks to see if the judge signed the Order. If s/he has, get a certified copy of the signed Order from the clerk. This will serve as proof to any agency that your child's name has indeed been changed. You should notify Social Security, schools, and any agencies that need to have correct records of the name. The clerk will send a copy to the State Registrar of Vital Records and to the Central Criminal Records Exchange. After a few weeks you can get a copy of the revised birth certificate from the State Registrar of Vital Records (local health departments have the application form).

3. **IF YOU WANT TO CHANGE THE CHILD'S NAME BUT THE OTHER PARENT WON'T AGREE.** Sometimes one parent refuses to sign an Application to change the name of a child. The judge can still order the name change in a court proceeding, but this situation is much more difficult. Normally, a hearing is required at which the disagreeing parent can explain his/her reasons to the judge, who decides what is best for the child. This procedure is complicated enough so that you should probably hire a lawyer to help.
4. **PLEASE REMEMBER** - Changing the name of a child is not the same as an adoption. Sometimes a mother with children marries and wants her children to carry her new husband's name. A name change may or may not be allowed by the court (depending mostly on whether the real father agrees), but that does not give the new husband the rights and responsibilities of a father. Only adoption can do that.

THIS INFORMATION IS NOT LEGAL ADVICE. *Legal advice is dependent upon the specific circumstances of each situation. Therefore, the information contained in this pamphlet cannot replace the advice of competent legal counsel.*

Free Legal information by Web and Phone: www.vlas.org and
1-866-LegalAid (534-5243)

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§ 8.01-217. How name of person may be changed.

A. Any person desiring to change his own name, or that of his child or ward, may apply therefor to the circuit court of the county or city in which the person whose name is to be changed resides, or if no place of abode exists, such person may apply to any circuit court which shall consider such application if it finds that good cause exists therefor under the circumstances alleged. Applications of probationers and incarcerated persons may be accepted if the court finds that good cause exists for such application. An incarcerated person may apply to the circuit court of the county or city in which such person is incarcerated. In case of a minor who has no living parent or guardian, the application may be made by his next friend. In case of a minor who has both parents living, the parent who does not join in the application shall be served with reasonable notice of the application pursuant to § 8.01-296 and, should such parent object to the change of name, a hearing shall be held to determine whether the change of name is in the best interest of the minor. It shall not be necessary to effect service upon any parent who files an answer to the application. If, after application is made on behalf of a minor and an ex parte hearing is held thereon, the court finds by clear and convincing evidence that such notice would present a serious threat to the health and safety of the applicant, the court may waive such notice.

B. Every application shall be under oath and shall include the place of residence of the applicant, the names of both parents, including the maiden name of his mother, the date and place of birth of the applicant, the applicant's felony conviction record, if any, whether the applicant is presently incarcerated or a probationer with any court, and if the applicant has previously changed his name, his former name or names.

C. On any such application and hearing, if such be demanded, the court, shall, unless the evidence shows that the change of name is sought for a fraudulent purpose or would otherwise infringe upon the rights of others or, in a case involving a minor, that the change of name is not in the best interest of the minor, order a change of name. The order shall contain no identifying information other than the applicant's former name or names, new name, and current address. The clerk of the court shall spread the order upon the current deed book in his office, index it in both the old and new names, and transmit a certified copy of the order and the application to the State Registrar of Vital Records and the Central Criminal Records Exchange. Transmittal of a copy of the order and the application to the State Registrar of Vital Records and the Central Criminal Records Exchange shall not be required of a person who changed his or her former name by reason of marriage and who makes application to resume a former name pursuant to § 20-121.4.

D. If the applicant shall show cause to believe that in the event his change of name should become a public record, a serious threat to the health or safety of the applicant or his immediate family would exist, the chief judge of the circuit court may waive the requirement that the application be under oath or the court may order the record sealed and direct the clerk not to spread and index any orders entered in the cause, and shall not transmit a certified copy to the State Registrar of Vital Records or the Central Criminal Records Exchange. Upon receipt of such order by the State Registrar of Vital Records, for a person born in this Commonwealth, together with a proper request and payment of required fees, the Registrar shall issue certifications of the amended birth record which do not reveal the former name or names of the applicant unless so ordered by a court of competent jurisdiction. Such certifications shall not be marked "amended" and show the effective date as provided in § 32.1-272. Such order shall set forth the date and place of birth of the person whose name is changed, the full names of his parents, including the maiden name of the mother and, if such person has previously changed his name, his former name or names.

(Code 1950, § 8-577.1; 1956, c. 402; 1973, c. 401; 1976, c. 115; 1977, cc. 457, 617; 1979, cc. 599, 603, 612; 1980, cc. 448, 455; 1981, c. 297; 1983, c. 335; 1985, c. 483; 1991, c. 144; 2003, c. 258; 2005, c. 579.)

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