

# Name Change Procedure for a Minor in Dane County

## Introduction

Any resident of the State of Wisconsin, whether a minor or an adult, may upon petition to the circuit court of the county where he or she resides and upon filing a copy of the notice, with proof of publication, if no sufficient cause is shown to the contrary, have his or her name changed or established by order of the court.

## Eligibility

You must be a resident of Wisconsin, Wis. Statute 786.36(1).

If the person whose name is to be changed is a minor under 14 years of age, this petition may be made by:

1. **Both parents** if living, or the survivor of them;
2. **The legal guardian** or person having legal custody of the minor if both parents are dead or if the parental rights of both parents have been terminated by judicial proceedings.
3. **The mother**, if the child is a non-marital child who is not adopted or whose parents do not intermarry, and **if paternity of the minor has not been established**.
4. **One parent of a minor with two living parents and paternity has been established.** **NOTE:** In this situation, in addition to filing a copy of the required notice with proof of publication, the petitioning parent must also file a document of the other parent's consent, proof of service, or proof that a reasonable attempt to find and provide notice to the non-petitioning party was made with the Court. If the non-petitioning parent does not appear at the hearing or otherwise answer the petition and notice, the action may proceed. If the non-petitioning parent appears at the hearing or otherwise answers the petition and shows that he or she has not abandoned the minor or failed to assume parental responsibility for the minor, the Court shall require the consent of the non-petitioning parent before changing the name of the minor. The **Response of Non-Petitioning Parent to Name Change of Minor Child Under 14 (Form CV-480)** or the **Affidavit of Attempted Service on Non-Petitioning Parent (CV-465)** is available online at the Clerk of Courts website or from the Legal Resource Center for a small fee.

## Documents

The packet includes these required four forms:

1. **Petition for Change of Name - Minor child under 14 (CV-455)**
2. **Notice and Order for Name Change Hearing (CV-460)**
3. **Order for Name Change (CV-470)**
4. **Form HCF 5021 "Report of Legal Name Change"** required for changing WI birth certificates and other vital records.

**\*\*Note: If you have found these instructions online, you will need to print each form individually.**

Even if an entire family is requesting to change their last name, each person should complete a separate set of the required forms. Each family member will be assigned a case number and charged a separate filing fee, but each case file will be assigned to the same judge. The judge will need to sign separate Orders for Name Change (CV-470) for each family member.

All forms must be typed or printed in **BLACK INK**. You must sign the **Petition for Change of Name** in front of a Notary Public. Your bank or credit union will notarize documents for you. Make one copy of the Notice and Order for Name Change Hearing. (You may also wish to make a copy for yourself.)

Additional name change forms are available online for free at the Dane County Clerk of Court's website at <http://countyofdane.com/clrkort/prepare/formOther.aspx>. For assistance finding the forms online or to purchase them for a small fee, contact the Legal Resource Center at (608) 266-6316.

### **Filing**

Take all forms to the Clerk of Courts Office, Rm 1000, Dane County Courthouse, 215 S Hamilton Street, Madison. The filing fee is \$164.50. The clerk will assign a case number and judge to the case and will keep the original **Petition for Change of Name** and the **Order for Name Change** for the case file. Take the remaining forms to the clerk in the office of the assigned judge.

The judge's clerk will assign a date and time for the hearing (not less than four weeks in the future so that you will have time to publish the notice, see below) and obtain the judge's signature on the **Notice and Order for Name Change Hearing**. The clerk will keep the original of the **Notice and Order for Name Change Hearing** and return the remaining copies to you. Note: If the judge is busy, you may have to wait or come back for the papers.

### **Publication – Required in all Cases**

State law (Wis. Stat § 786.37) requires publication of the **Notice and Order for Name Change Hearing** in a local newspaper as a third class notice (i.e., printed once a week for three weeks) prior to the hearing date. Take or send a copy of the **Notice and Order for Name Change Hearing** form to Capital Newspapers, 1901 Fish Hatchery Road, Madison 53713 **with a check for \$85**. They will send you a "Proof of Publication" affidavit, which you will need to bring with you to the hearing. Contact Capital Newspapers directly if you have questions about the fees at (608) 252-6200.

### **Service – Only Required if one parent is filing on behalf of a minor under 14 whose paternity has been established.**

The petitioning parent must attempt to serve the petition and notice of hearing on the non-petitioning party or obtain their consent. If the other parent is in agreement about the name change, they can fill out the **Response of Non-Petitioning Parent to Name Change of Minor Child Under 14 (Form CV-480)**. Make a copy of the completed form for your records and turn the original in at the Clerk of Courts, Room 1000. Bring your copy to the hearing.

If you need to serve the petition and notice of hearing on the non-petitioning party, you will need to file proof of service. A proof of service document will be provided to you after successful service by the Dane County Sheriff's Department. When proof of service is returned, mail or take the original to the Clerk of Courts in Room 1000 after you make a copy of the proof of service for yourself. Bring your copy to the hearing. If the other parent cannot be located, you will have to file proof of due diligence of attempted service with the Court in addition to the proof of publication. The **Affidavit of Attempted Service on Non-petitioning Parent (CV-465)** is available at the Legal Resource Center (Room L1007 Dane County Courthouse) for a small fee or online at the Clerk of Courts website.

### **Service by sheriff**

If the other party lives in Dane County, you may have the documents served on the other party by the Civil Process Division of the Dane County Sheriff's Department, 2<sup>nd</sup> floor, Public Safety Building, 115 W. Doty St., Madison, WI 53703. The sheriff will need two copies of the forms you filed. There is a \$40 charge for every service attempt plus 55.5¢ per mile, round trip.

Once the documents have been served, you will be sent a proof of service. When proof of service is returned, mail or take the original to the Clerk of Courts in Room 1000 after you make a copy of the proof of service for yourself. Bring your copy to the hearing.

If the person to be served lives outside of Dane County, call the sheriff in that county for instructions on service of the papers.

#### Service by private process server

You may use a private process server to serve the documents. Look in the Yellow Pages under “process servers”. Once the documents have been served, you will be sent a proof of service. When proof of service is returned, mail or take the original to the Clerk of Courts in Room 1000 after you make a copy of the proof of service for yourself. Bring the document to the hearing.

#### Hearing

*For minors under 14 whose paternity has been established and one parent is the petitioning party, if the non-petitioning parent does not appear at the hearing or otherwise answer the petition, the action may proceed. If the non-petitioning parent appears at the hearing or otherwise answers the petition and shows that he or she has not abandoned the minor or failed to assume parental responsibility for the minor, the Court shall require the consent of the non-petitioning parent before changing the name of the minor. The **Response of Non-Petitioning Parent to Name Change of Minor Child Under 14 (Form CV-480)** is available online at the Clerk of Courts website or from the Legal Resource Center for a small fee. For assistance finding the form online or to purchase it, contact the Legal Resource Center at (608) 266-6316.*

Arrive at least 15 minutes early for your hearing at the assigned courtroom and inform the bailiff of your presence. You must have the original or certified copy of your birth certificate for the judge's review. The judge will ask you for the "Proof of Publication" affidavit. If one living parent is filing on behalf of a minor, the other parent's consent and/or proof of service or attempted service must also be provided at the hearing. You will be placed under oath and questioned about the information on the **Petition**. If your petition is granted, the judge will sign the **Order for Change of Name**. If you are changing a WI birth certificate or other vital record, Form HCF 5021 "Report of Legal Name Change" must be partially completed at the conclusion of the hearing and taken to the Clerk of Courts Office. The clerk will return the file to the Clerk of Courts Office in Room 1000.

Immediately after the hearing at the Clerk of Courts Office (Room 1000), you may request certified copies of the **Order for Change of Name** for change of record(s) needs. Cost for each certification is \$5 plus \$1.25 per page.

To change your Wisconsin birth certificate:

Mail or take Form HCF 5021 “Report of Legal Name Change” to the Vital Records Office of the State Dept. of Health & Family Services, Room 158, State Office Building, 1 W. Wilson St., Madison 53703 with appropriate payment so that they can change a Wisconsin birth certificate or other vital record. Copies of the new birth certificate can be mailed to you upon request and appropriate payment. See the Report of Legal Name Change for fee amounts or you can contact the State Vital Records office directly at (608) 266-1374.

If you were born or married outside of Wisconsin: You will need to write to the other state's "vital records office" and ask what it is they require to change your birth/marriage certificates. Addresses can be obtained from your local library.

You may also want to take one certified copy to the Register of Deeds Office, Real Estate Recording Section, Room 110 City County Building, and ask them to record it. This is important only if you own real estate in Dane County. It will cost \$30.

You may also want to take a certified copy of the name change order to the Social Security Administration