

MAINE STATE LEGISLATURE

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Date: 3/6/24

(Filing No. S-559)

MAJORITY

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STATE OF MAINE

SENATE

131ST LEGISLATURE

SECOND REGULAR SESSION

COMMITTEE AMENDMENT "A" to S.P. 305, L.D. 747, "An Act to Require the Probate Court to Report Name Changes to the State Bureau of Identification"

Amend the bill by striking out the title and substituting the following:

'An Act Regarding the Reporting of Adult Name Changes by the Probate Courts to the State Bureau of Identification'

Amend the bill by inserting after the title and before the emergency preamble the following:

'Mandate preamble. This measure requires one or more local units of government to expand or modify activities so as to necessitate additional expenditures from local revenues but does not provide funding for at least 90% of those expenditures. Pursuant to the Constitution of Maine, Article IX, Section 21, 2/3 of all of the members elected to each House have determined it necessary to enact this measure; and'

Amend the bill by striking out everything after the enacting clause and before the emergency clause and inserting the following:

'PART A

Sec. A-1. 18-C MRSA §1-701, as amended by PL 2021, c. 559, §§1 to 3, is further amended to read:

§1-701. Process to change name

1. Petition, request; where filed. This section governs the process to change the name of a person.

A. A person may petition to change that person's name in the Probate Court in the county where the person resides.

B. A parent or guardian of a minor may petition to change a minor's name in the Probate Court in the county where the minor resides, unless the District Court has exclusive jurisdiction pursuant to Title 4, section 152, subsection 5-A, in which case the petition must be filed in the District Court.

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1 C. A parent or guardian may request to change a minor's name as part of a proceeding
2 concerning parentage or other parental rights, including actions for divorce, parental
3 rights and responsibilities, post-judgment motions and any other proceeding involving
4 parental rights with respect to the minor, in the District Court without filing a separate
5 petition if the parent or guardian asserts good cause.

6 D. A minor may petition for a name change through an emancipation proceeding
7 without filing a separate petition if the minor asserts good cause.

8 E. A change of a minor's name may not be ordered pursuant to a protection from abuse
9 order under Title 19-A, section 4007.

10 For purposes of this section, "parent" means a person who, with respect to the minor, has
11 established parentage pursuant to Title 19-A, chapter 61 and whose parental rights have not
12 been terminated.

13 For purposes of this section, "guardian" means a person appointed by a court to make
14 decisions with respect to the personal affairs of an individual. "Guardian" includes a
15 coguardian and a permanency guardian appointed under Title 22, section 4038-C but does
16 not include a guardian ad litem.

17 For purposes of this section, "bureau" means the Department of Public Safety, Bureau of
18 State Police, State Bureau of Identification.

19 **2. Adult's name change.** Upon receipt of a petition filed by an adult under subsection
20 1, paragraph A, the court may change the name of that adult. The court may not require
21 public notice before approving the name change. Before approving the name change, the
22 court shall notify the petitioner that:

23 A. The name change order will be public unless the court grants a request by the
24 petitioner to make the name change order confidential as provided in subsection 3-A;
25 and

26 B. An abstract of the name change order will be transmitted to the bureau unless the
27 court grants a request by the petitioner not to transmit the abstract of the name change
28 order to the bureau as provided in subsection 3-B, paragraph C.

29 **2-A. Notice and name change; minors.** A parent or guardian who has filed a petition
30 under subsection 1, paragraph B or has requested a name change in a District Court
31 proceeding under subsection 1, paragraph C shall provide notice pursuant to the applicable
32 rules of procedure to any other parent, any guardian and any person or agency with legal
33 custody of the minor; to the guardian ad litem if one is currently appointed; and to the minor
34 if the minor is 14 years of age or older. To protect the safety of the minor for whom the
35 name change is sought, the court may limit notice required under this subsection if the
36 parent who has sole parental rights and responsibilities shows by a preponderance of the
37 evidence that:

38 A. The minor is a victim of abuse; or

39 B. The minor or petitioner is currently in reasonable fear of the minor's or petitioner's
40 safety.

41 **2-B. Evaluation of minor's name change.** Upon proof of service of the notice
42 required under subsection 2-A and after providing an opportunity for those entitled to
43 notice to respond to the petition:

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- 1 A. The court shall change a minor's name by agreement of all parties, which a party
2 may indicate by signing a waiver; or
- 3 B. In the event that not all parties agree to the name change, the court shall consider
4 the following factors to assess whether the request or petition is in the best interest of
5 the minor:
- 6 (1) The minor's expressed preference, if the minor is of sufficient age and maturity
7 to articulate a basis for preferring a particular name;
- 8 (2) If the minor is 14 years of age or older, whether the minor consents or objects
9 to the name change petition;
- 10 (3) The extent to which the minor uses a particular name;
- 11 (4) Whether the minor's name is different from any of the minor's siblings and the
12 degree to which the minor associates and identifies with siblings on any side of the
13 minor's family;
- 14 (5) The difficulties, harassment or embarrassment that the minor may experience
15 by bearing the current or proposed name; and
- 16 (6) Any other factor the court considers relevant to the minor's best interests,
17 including the factors outlined in Title 19-A, section 1653, subsection 3.
- 18 If the court finds that the name change is in the best interest of the minor by a
19 preponderance of the evidence, the court shall change the minor's name.

20 **3. Record Name change of minor; confidentiality.** The court shall make and
21 preserve a record of a name change of a minor. The court may make the ~~record of the~~ name
22 change confidential ~~or not public~~.

23 **3-A. Name change of adult; confidentiality.** The court shall make and preserve a
24 record of a name change of an adult. Upon request, the court may order that the name
25 change be confidential if the court finds that, under the circumstances, the adult's interest
26 in maintaining the confidentiality of the record outweighs the public interest in the
27 disclosure of the record. In making this determination, the court shall consider the
28 following factors:

- 29 A. Whether the adult is a victim of abuse;
- 30 B. Whether the adult is currently in reasonable fear of the adult's safety;
- 31 C. Whether the adult is a program participant in the Address Confidentiality Program
32 pursuant to Title 5, section 90-B;
- 33 D. The results of the criminal history record check and any other background checks
34 ordered under subsection 5. There is a rebuttable presumption that the public interest
35 in the disclosure of the record outweighs the adult's interest in maintaining the
36 confidentiality of the record if the adult was convicted of murder or a Class A, Class B
37 or Class C crime within the 10 years immediately preceding the filing of the petition
38 under subsection 1, paragraph A or was convicted of a Class D or Class E crime within
39 the 5 years immediately preceding the filing of the petition; and
- 40 E. Any other factor that the court considers relevant.

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1 The court may not order that the name change be confidential under this subsection if the
2 adult is currently under official supervision as a probationer, a parolee or a sex offender on
3 supervised release or is currently required to register as a sex offender.

4 **3-B. Transmission of adult name change to bureau.** This subsection governs
5 transmission of adult name change orders to the bureau.

6 A. Except as provided in paragraph C, the court shall electronically transmit to the
7 bureau an abstract of any name change order of an adult issued on or after January 1,
8 2025 pursuant to this section. The abstract must include the adult's former name, new
9 name and date of birth; whether the court ordered that the record of the name change
10 be confidential under subsection 3-A; and, if known to the court and not otherwise
11 confidential, the adult's physical address and the number associated with the adult's
12 criminal history record information, as defined in Title 16, section 703, subsection 3 or
13 other number assigned by the bureau.

14 B. Title 16, section 704, subsection 3 and Title 16, section 705, subsection 4 govern
15 dissemination of criminal history record information by a Maine criminal justice
16 agency for an adult whose name has been changed pursuant to an order made
17 confidential under subsection 3-A.

18 C. Upon request and upon a showing of extraordinary circumstances, the court may
19 order that an abstract of a name change order of an adult made confidential under
20 subsection 3-A not be transmitted to the bureau.

21 **4. Filing fee.** The fee for filing a name change petition is \$75.

22 **5. Background checks.** The court ~~may~~ shall require ~~a person~~ an adult seeking a name
23 change to undergo ~~one or more of the following background checks:~~ a criminal history
24 record check; The court may require a minor seeking a name change to undergo a criminal
25 history record check and may require any person seeking a name change to undergo a motor
26 vehicle record check; or a credit check. The court may require the person to pay the cost
27 of each background check required.

28 **6. Denial of petition brought for improper purpose.** The court may not change the
29 name of a person if the court has reason to believe that the person is seeking the name
30 change for purposes of defrauding another person or entity or for purposes otherwise
31 contrary to the public interest. There is a rebuttable presumption that the name change is
32 brought for purposes contrary to the public interest if the adult is currently under official
33 supervision as a probationer, a parolee or a sex offender on supervised release or is
34 currently required to register as a sex offender.

35 **PART B**

36 **Sec. B-1. 16 MRSA §704, sub-§3** is enacted to read:

37 **3. Public criminal history record information of person whose legal name has**
38 **been changed.** Except as provided in this subsection, a Maine criminal justice agency may
39 disseminate public criminal history record information associated with each former and
40 current legal name of a person whose name has been changed to any person or public or
41 private entity for any purpose. If an order changing the person's name was made
42 confidential under Title 18-C, section 1-701, subsection 3-A or any other provision of law,
43 a Maine criminal justice agency:

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1 A. May not disclose the existence or nonexistence of the person's legal name change
2 to any person or public or private agency that is not authorized to receive confidential
3 criminal history record information under section 705; and

4 B. In response to a request for public criminal history record information from any
5 person or public or private agency that is not authorized to receive confidential criminal
6 history record information under section 705, may not disseminate public criminal
7 history record information about a person that is associated with any legal name of the
8 person not included within the request.

9 **Sec. B-2. 16 MRSA §705, sub-§4** is enacted to read:

10 **4. Confidential criminal history record information of person whose legal name**
11 **has been changed. Regardless of whether the order changing a person's name was made**
12 **confidential under Title 18-C, section 1-701, subsection 3-A or any other provision of law,**
13 **a Maine criminal justice agency may disseminate confidential criminal history record**
14 **information associated with each former and current legal name of a person whose name**
15 **has been changed to any person or public or private entity that is authorized to receive**
16 **confidential criminal history record information under subsection 1-A.'**

17 Amend the bill by relettering or renumbering any nonconsecutive Part letter or section
18 number to read consecutively.

19 **SUMMARY**

20 This amendment replaces the bill and changes the title. Part A:

21 1. Requires that an adult seeking a name change in a probate court undergo a criminal
22 history record check;

23 2. Establishes a rebuttable presumption that a probate court may not order a name
24 change of an adult if the adult is currently under official supervision as a probationer, a
25 parolee or a sex offender on supervised release or if the adult is currently required to register
26 as a sex offender;

27 3. Provides that a probate court may order that the record of the name change of an
28 adult is confidential if the court finds, after considering all relevant factors, that the adult's
29 interest in maintaining the confidentiality of the record outweighs the public interest in the
30 disclosure of the record. It also creates a rebuttable presumption that the public's interest
31 in disclosure outweighs the adult's interest in maintaining confidentiality if the adult has
32 been convicted of a Class D or E crime within the 5 years immediately preceding the filing
33 of the name change request or has been convicted of a more serious crime within the 10
34 years immediately preceding the filing of the name change request. The probate court may
35 not order that the record of the name change of an adult is confidential if the adult is
36 currently under official supervision as a probationer, a parolee or a sex offender on
37 supervised release or if the adult is currently required to register as a sex offender;

38 4. Beginning January 1, 2025, requires a probate court to electronically transmit an
39 abstract of any name change order for an adult to the Department of Public Safety, Bureau
40 of State Police, State Bureau of Identification unless the court orders, upon a showing of
41 extraordinary circumstances, that an abstract of a name change order of an adult made
42 confidential by the court not be transmitted to the State Bureau of Identification; and

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COMMITTEE AMENDMENT "A" to S.P. 305, L.D. 747 (S-559)

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5. Requires a probate court to inform an adult who seeks a name change of the opportunity to request the court to order that the record of the name change order be made confidential and to additionally request that the court not transmit an abstract of a confidential name change order to the State Bureau of Identification.

Part B directs that, in response to a request for public criminal history record information about an adult, a Maine criminal justice agency may disseminate information associated with each former and current legal name of the adult unless the name change was made confidential by the probate court. If an order of a name change was made confidential by the probate court, the agency may not disclose to any person that is not authorized to receive confidential criminal history record information the existence of the name change order or any criminal history record information associated with a legal name of the adult that is not included within the request.

FISCAL NOTE REQUIRED

(See attached)

COMMITTEE AMENDMENT



131st MAINE LEGISLATURE

LD 747

LR 664(02)

An Act to Require the Probate Court to Report Name Changes to the State Bureau of Identification

Fiscal Note for Bill as Amended by Committee Amendment "A" (S-559)

Committee: Judiciary

Fiscal Note Required: Yes

Fiscal Note

State Mandate - Exempted

State Mandates

Required Activity

Requires probate courts to electronically transmit adult name change orders to the Department of Public Safety, State Bureau of Identification beginning January 1, 2025. Requires probate courts to notify an adult seeking a name change that the name change will be public and transmitted to the State Bureau of Identification unless granted an exception by the court.

Unit Affected

County

Local Cost

Insignificant
statewide

Pursuant to the Mandate Preamble, the two-thirds vote of all members elected to each House exempts the State from the constitutional requirement to fund 90% of the additional costs.

Fiscal Detail and Notes

Additional costs to the Department of Public Safety associated with this legislation are expected to be minor and can be absorbed within existing budgeted resources.