



## 1997 SENATE BILL 284

August 28, 1997 - Introduced by Senators ROESSLER and HUELSMAN, cosponsored by Representatives OLSEN, OWENS, DOBYNS, F. LASEE, MUSSER and GARD. Referred to Committee on Judiciary, Campaign Finance Reform and Consumer Affairs.

1     **AN ACT** *to renumber and amend* 786.36 and 786.37; and *to create* 786.36 (2)  
2           (b), 786.36 (2) (c) and 786.37 (2) of the statutes; **relating to:** changing the name  
3           of a minor.

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### *Analysis by the Legislative Reference Bureau*

Under current law, a resident of this state, in order to change his or her name, must petition the circuit court for an order changing his or her name. Currently, if the person whose name is to be changed is a minor under 14 years of age, both parents of the minor, if living, must file the petition or, if the minor under 14 years of age is a nonmarital child who is not adopted or whose parents have not subsequently intermarried, the mother of the child may file the petition, except that the father of the child must also join in the petition unless his parental rights have been terminated. Currently, before applying to the court for a name change, the petitioner must publish a legal notice of the application once each week for 3 consecutive weeks in a newspaper that is likely to give notice to persons affected by the name change.

This bill permits not only the mother, but rather any parent who has legal custody, of a minor under 14 years of age who is a nonmarital child who is not adopted or whose parents have not subsequently intermarried to petition for an order changing the minor's name, except that the other parent must join in the petition unless his or her parental rights have been terminated.

The bill also permits one parent to petition for the name change of a minor under 14 years of age who has 2 living parents, and permits one parent who has legal custody of a minor under 14 years of age who is a nonmarital child who is not adopted

or whose parents have not subsequently intermarried to petition for the name change of the minor, if the petitioning parent, in addition to filing proof of publication of the notice as required under current law, also files proof that the petitioning parent mailed a copy of the notice and petition to the last-known address of the nonpetitioning parent, if that address can be obtained with reasonable diligence. The court may order the name change if the nonpetitioning parent does not appear at the hearing or otherwise answer the petition. If the nonpetitioning parent does appear at the hearing or answer the petition and shows that he or she has not dissociated himself or herself from the minor or relinquished responsibility for the care, support and well-being of the minor, the court may order the name change only on the consent of the nonpetitioning parent or on a finding that the name change would be in the best interests of the minor.

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***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

1           **SECTION 1.** 786.36 of the statutes is renumbered 786.36 (1) and amended to  
2 read:

3           786.36 (1) Any resident of this state, whether a minor or adult, may upon  
4 petition to the circuit court of the county where he or she resides and upon filing a  
5 copy of the notice, with proof of publication, as required by s. 786.37 (1), if no  
6 sufficient cause is shown to the contrary, have his or her name changed or established  
7 by order of the court. If

8           (2) (a) Subject to par. (b), if the person whose name is to be changed is a minor  
9 under the age of 14 years, the petition may be made by: both parents, if living, or the  
10 survivor of them; the guardian or person having legal custody of the minor if both  
11 parents are dead or if the parental rights have been terminated by judicial  
12 proceedings; or ~~the mother~~ a parent who has legal custody of the minor, if the minor  
13 is a nonmarital child who is not adopted or whose parents do have not subsequently  
14 intermarry intermarried under s. 767.60, except that the father other parent must  
15 also make the petition unless his or her rights have been legally terminated.

1           **(3)** The order shall be entered at length upon the records of the court and a  
2 certified copy of the record shall be recorded in the office of the register of deeds of  
3 the county, who shall make an entry in a book to be kept by the register. The fee for  
4 recording a certified copy is the fee specified under s. 59.43 (2) (ag). If the person  
5 whose name is changed or established was born or married in this state, the clerk  
6 of the court shall send to the state registrar of vital statistics, on a form designed by  
7 the state registrar of vital statistics, an abstract of the record, duly certified,  
8 accompanied by the fee prescribed in s. 69.22, which fee the clerk of court shall charge  
9 to and collect from the petitioner. The state registrar of vital statistics shall then  
10 correct the birth record, marriage record or both, and direct the register of deeds and  
11 local registrar to make similar corrections on their records.

12           **(4)** No person engaged in the practice of any profession for which a license is  
13 required by the state may change his or her given name or his or her surname to any  
14 other given name or any other surname than that under which the person was  
15 originally licensed in the profession in this or any other state, in any instance in  
16 which the state board or commission for the particular profession, after a hearing,  
17 finds that practicing under the changed name operates to unfairly compete with  
18 another practitioner or misleads the public as to identity or otherwise results in  
19 detriment to the profession or the public. This prohibition against a change of name  
20 by a person engaged in the practice of any profession does not apply to any person  
21 legally qualified to teach in the public schools in this state, nor to a change of name  
22 resulting from marriage or divorce, nor to members of any profession for which there  
23 exists no state board or commission authorized to issue licenses or pass upon the  
24 qualifications of applicants or hear complaints respecting conduct of members of the  
25 profession.

1           **(5)** Any change of name other than as authorized by law is void.

2           **SECTION 2.** 786.36 (2) (b) of the statutes is created to read:

3           786.36 **(2)** (b) Notwithstanding par. (a), the name of a minor under 14 years of  
4 age who has 2 living parents may be changed on the petition of one parent, and the  
5 name of a minor under 14 years of age who is a nonmarital child who is not adopted  
6 or whose parents have not subsequently intermarried under s. 767.60 may be  
7 changed on the petition of one parent who has legal custody of the minor, if, in  
8 addition to filing a copy of the notice, with proof of publication, as required by s.  
9 786.37 (1), the petitioning parent files proof of mailing, as required by s. 786.37 (2),  
10 and the nonpetitioning parent does not appear at the hearing on the petition or  
11 otherwise answer the petition.

12           **SECTION 3.** 786.36 (2) (c) of the statutes is created to read:

13           786.36 **(2)** (c) If the nonpetitioning parent appears at the hearing on the  
14 petition or otherwise answers the petition and shows that he or she has not  
15 dissociated himself or herself from the minor or relinquished responsibility for the  
16 minor's care, support and well-being, the court may order the minor's name to be  
17 changed only on the consent of the nonpetitioning parent or on a finding that the  
18 name change would be in the best interests of the minor.

19           **SECTION 4.** 786.37 of the statutes is renumbered 786.37 (1) and amended to  
20 read:

21           786.37 **(1)** Before ~~applying to petitioning~~ the court for ~~changing or establishing~~  
22 to change or establish a name, the ~~applicant~~ petitioner shall publish a class 3 notice  
23 under ch. 985 stating the nature of the ~~application~~ petition and when and where the  
24 ~~application~~ petition will be made heard.

1           **(3)** This section does not apply to the name change of a minor if parental rights  
2     to the minor have been terminated and guardianship and legal custody transferred  
3     under subch. VIII of ch. 48, and the minor has been placed in a permanent foster  
4     home or a permanent treatment foster home, where the guardian and legal custodian  
5     have petitioned to change the minor's name to the name or names of the minor's  
6     foster parents or treatment foster parents.

7           **SECTION 5.** 786.37 (2) of the statutes is created to read:

8           786.37 **(2)** If the petition is for the change of name of a minor under 14 years  
9     of age who has 2 living parents, and the petition is being made by one parent of the  
10    minor, or if the petition is for the change of name of a minor under 14 years of age  
11    who is a nonmarital child who is not adopted or whose parents have not subsequently  
12    intermarried under s. 767.60, and the petition is being made by a parent who has  
13    legal custody of the minor, the petitioner shall, in addition to publishing the notice  
14    under sub. (1), mail a copy of the notice and petition to the last-known address of the  
15    nonpetitioning parent at or immediately prior to the time of the first publication  
16    under sub. (1), if that address can be ascertained with reasonable diligence.

17           **SECTION 6. Initial applicability.**

18           (1) This act first applies to petitions for name changes that are filed on the  
19     effective date of this subsection.

20                                   **(END)**