

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 530 Session of 2023

INTRODUCED BY CAPPELLETTI, KEARNEY, MUTH, L. WILLIAMS, HAYWOOD, SAVAL, STREET, FONTANA AND KANE, MARCH 15, 2023

REFERRED TO JUDICIARY, MARCH 15, 2023

AN ACT

1 Amending Title 54 (Names) of the Pennsylvania Consolidated
 2 Statutes, in judicial change of name, further providing for
 3 court approval required for change of name and for change by
 4 order of court, providing for change by administrative
 5 application and further providing for effect on children.

6 The General Assembly of the Commonwealth of Pennsylvania
 7 hereby enacts as follows:

8 Section 1. Section 701(a), (a.1) heading, (1) and (4)(ii)(B)
 9 and (b) of Title 54 of the Pennsylvania Consolidated Statutes
 10 are amended and the section is amended by adding a subsection to
 11 read:

12 § 701. Court approval required for change of name.

13 (a) General rule.--Except as set forth in subsection (b), it
 14 shall be unlawful for any person to assume a name different from
 15 the name by which such person is and has been known, unless such
 16 change in name is made pursuant to proceedings in court in
 17 accordance with subsection (a.1) or pursuant to the
 18 administrative procedures provided in subsection (a.2).

19 (a.1) [Procedure] Court petition procedure--

1 (1) An individual [must] may file a petition in the
2 court of common pleas of the county in which the individual
3 resides. If a petitioner is married, the petitioner's spouse
4 may join as a party petitioner, in which event, upon
5 compliance with the provisions of this subsection, the spouse
6 shall also be entitled to the benefits of this subsection.

7 * * *

8 (4) At the hearing, the following apply:

9 * * *

10 (ii) The petitioner must present to the court all of
11 the following:

12 * * *

13 [(B) An official search of the proper offices of
14 the county where petitioner resides and of any other
15 county where petitioner has resided within five years
16 prior to filing the petition showing that there are
17 no judgments, decrees of record or other similar
18 matters against the petitioner. This clause may be
19 satisfied by a certificate given by a corporation
20 authorized by law to make the search under this
21 clause.]

22 * * *

23 (a.2) Administrative procedure.--

24 (1) Except as provided in paragraph (2), an individual
25 may apply for a change of name by filing an application with
26 the Department of Health. The Department of Health shall
27 prescribe the application form and the manners in which it
28 shall be filed, subject to the following:

29 (i) An applicant may obtain and submit the
30 application for a change of name either electronically

1 through the Department of Health's publicly accessible
2 Internet website or physically at any driver license and
3 photo center location of the Department of Transportation
4 of the Commonwealth, in addition to any other Department
5 of Health location accessible to the public where the
6 Department of Health makes available the application
7 form.

8 (ii) If an individual submits an application at a
9 driver license or photo center location of the Department
10 of Transportation, the Department of Transportation shall
11 promptly transmit the application to the Department of
12 Health in a secure manner to be determined by the
13 Department of Health, in consultation with the Department
14 of Transportation.

15 (iii) The Department of Health shall distribute the
16 application form to the Department of Transportation.

17 (iv) The Department of Health shall make the
18 following available on its publicly accessible Internet
19 website:

20 (A) the electronic application for a change of
21 name;

22 (B) the list of Department of Health locations
23 at which an individual may obtain and submit an
24 application; and

25 (C) a notice that the application may be
26 submitted at any Department of Transportation driver
27 license or photo center location.

28 (2) Notwithstanding paragraph (1), an individual seeking
29 a change of name shall do so by filing a petition with the
30 court of common pleas pursuant to the procedure under

1 subsection (a.1) if any of the following circumstances apply:

2 (i) The application is for change of name of a minor
3 and the minor's parent, legal guardian or legal
4 representative does not provide consent for the
5 applicant's name change. The application for a change of
6 name of a minor may proceed under this subsection if the
7 applicant can demonstrate to the satisfaction of the
8 Department of Health at the conference scheduled under
9 paragraph (4) (i) that:

10 (A) the applicant provided notice to the
11 nonapplying parent as required under paragraph (4)
12 (iii) and made a reasonable attempt to obtain written
13 and notarized consent from the nonapplying parent;
14 and

15 (B) there is no objection from the nonapplying
16 parent.

17 (ii) The applicant is unable to obtain and present
18 the required documentation for purposes of applying for a
19 name change, including documentation required by the
20 Department of Health, as prescribed by rule or
21 regulation, to permit the Department of Health to confirm
22 the identity of the applicant and identify the correct
23 record of live birth to be amended.

24 (3) The application must set forth all of the following:

25 (i) The intention to change the applicant's name.

26 (ii) The reason for the name change.

27 (iii) The current residence of the applicant.

28 (iv) Any residence of the applicant for the five
29 years prior to the date of the application.

30 (4) Upon filing of the application, the Department of

1 Health shall do all of the following:

2 (i) Set a date for a conference on the application,
3 which shall be held not less than one month nor more than
4 three months after the application is filed.

5 (ii) Seal the file. There shall be no public access
6 to any name change application or record related thereto,
7 except that it may be opened at the applicant's request.
8 Applications and records related thereto shall not be
9 subject to access under the act of February 14, 2008
10 (P.L.6, No.3), known as the Right-to-Know Law.

11 (iii) Direct that notice be given of the filing of
12 the application, by certified mail, return receipt
13 requested, to any nonapplying parent of a minor whose
14 name may be affected by the proceedings and notice shall
15 include the date of the scheduled conference under
16 subparagraph (i) and that the nonapplying parent may
17 appear to object to the application at said conference.

18 (5) At the conference, the following apply:

19 (i) An individual having lawful objection to the
20 change of name may be heard.

21 (ii) The applicant must present to the Department of
22 Health all of the following:

23 (A) Proof of service of the notice under
24 paragraph (4)(iii).

25 (B) Any other documentation required by the
26 Department of Health by rule or regulation to permit
27 the Department of Health to confirm the identity of
28 the applicant and identify the correct record of live
29 birth to be amended.

30 (6) The Department of Health may change the name as

1 applied if the Department of Health is satisfied after the
2 hearing that there is no lawful objection to the granting of
3 the application.

4 (7) Any person aggrieved by the Department of Health's
5 determination under this subsection may appeal to the
6 Commonwealth Court in accordance with 2 Pa.C.S. (relating to
7 administrative law and procedure).

8 (8) Nothing under this subsection, including electing to
9 file an application for a name change, shall preclude an
10 individual from the alternative option of filing a petition
11 for a change of name in a court of common pleas pursuant to
12 the procedures under subsection (a.1).

13 (9) The following words and phrases when used in this
14 subsection shall have the meanings given to them in this
15 paragraph unless the context clearly indicates otherwise:

16 "Minor." An individual who is under 18 years of age and
17 not emancipated.

18 (b) Informal change of name.--Notwithstanding subsection
19 (a), a person may adopt and use any name if the name is used
20 consistently, nonfraudulently and exclusively. The adoption of
21 the name shall not, however, be in contravention of the
22 prohibitions contained in section 702(c) (relating to change by
23 order of court) or 702.1(c) (relating to change by
24 administrative application).

25 Section 2. Section 702(c) of Title 54 is amended to read:

26 § 702. Change by order of court.

27 * * *

28 (c) Convicted felons.--

29 (1) The court may order a change of name for a person
30 convicted of a felony[, subject to provisions of paragraph

1 (2),] if:

2 (i) [at least two calendar years have elapsed from
3 the date of completion of a person's sentence and] that
4 person has completed the person's sentence and is not
5 subject to the probation or parole jurisdiction of any
6 court, county probation agency or the Pennsylvania Board
7 of Probation and Parole; or

8 (ii) the person has been pardoned.

9 [(2) The court may not order a change of name for a
10 person convicted of murder, voluntary manslaughter, rape,
11 involuntary deviate sexual intercourse, statutory sexual
12 assault, sexual assault, aggravated indecent assault, robbery
13 as defined in 18 Pa.C.S. § 3701(a)(1)(i) (relating to
14 robbery), aggravated assault as defined in 18 Pa.C.S. §
15 2702(a)(1) or (2) (relating to aggravated assault), arson as
16 defined in 18 Pa.C.S. § 3301(a) (relating to arson and
17 related offenses), kidnapping or robbery of a motor vehicle
18 or criminal attempt, criminal conspiracy or criminal
19 solicitation to commit any of the offenses listed above or an
20 equivalent crime under the laws of this Commonwealth in
21 effect at the time of the commission of that offense or an
22 equivalent crime in another jurisdiction.]

23 (3) The court shall notify the Office of Attorney
24 General, the Pennsylvania State Police and the office of the
25 district attorney of the county in which the person resides
26 when a change of name for a person convicted of a felony has
27 been ordered. The Pennsylvania State Police, upon receipt of
28 this notice, shall include the change of name information in
29 the central repository as provided for in 18 Pa.C.S. Ch. 91.
30 Section 3. Title 54 is amended by adding a section to read:

1 § 702.1. Change by administrative application.

2 (a) General rule.--The Department of Health may change the
3 name of any individual filing an application under section
4 701(a.2) (relating to court approval required for change of
5 name).

6 (b) Procedure.--Prior to the approval of change of name, all
7 of the following shall apply:

8 (1) The Department of Health must forward to the
9 Pennsylvania State Police a duplicate copy of the application
10 for change of name and a set of the applicant's fingerprints.
11 The applicant is responsible for costs under this paragraph.

12 (2) The Pennsylvania State Police shall use the
13 fingerprints to determine if the applicant is subject to 18
14 Pa.C.S. Ch. 91 (relating to criminal history record
15 information).

16 (3) The Pennsylvania State Police shall:

17 (i) if the applicant is subject to 18 Pa.C.S. Ch.
18 91, note the name change on the applicant's criminal
19 history record information; or

20 (ii) if the applicant is not subject to 18 Pa.C.S.
21 Ch. 91, destroy the fingerprints.

22 (4) Within 60 days of receipt of the material under
23 paragraph (1), the Pennsylvania State Police shall certify to
24 the department what action has been taken under paragraph
25 (3).

26 (5) The procedure in this subsection shall not apply to
27 proceedings involving:

28 (i) An election to resume a prior surname pursuant
29 to section 704 (relating to divorcing and divorced person
30 may resume prior name).

1 (ii) Name changes involving minor children in
2 adoption proceedings.

3 (iii) A name change involving a minor child whose
4 name is being changed under section 703 (relating to
5 effect on children) or because of the change of name of
6 the child's parent.

7 (c) Convicted felons.--

8 (1) The Department of Health may order a change of name
9 for an applicant convicted of a felony if:

10 (i) the individual has completed the individual's
11 sentence and is not subject to the probation or parole
12 jurisdiction of any court, county probation agency or the
13 Pennsylvania Board of Probation and Parole; or

14 (ii) the individual has been pardoned.

15 (2) The Department of Health shall notify the Office of
16 Attorney General, the Pennsylvania State Police and the
17 office of the district attorney of the county in which the
18 applicant resides when a change of name for an individual
19 convicted of a felony has been ordered. The Pennsylvania
20 State Police, upon receipt of this notice, shall include the
21 change of name information in the central repository as
22 provided for in 18 Pa.C.S. Ch. 91.

23 (d) Rules and regulations.--The Department of Health may
24 prescribe any rules and regulations necessary to implement the
25 provisions of this section and section 701(a.1).

26 (e) Definition.--As used in this section, the term "minor"
27 means an individual who is under 18 years of age and not
28 emancipated.

29 Section 4. Section 703(b) of Title 54 is amended to read:
30 § 703. Effect on children.

1 * * *

2 (b) Further change on attaining majority.--Any minor child
3 whose surname has been changed pursuant to subsection (a) upon
4 attaining majority shall also be entitled to the benefits of
5 ~~[section 702 (relating to change by order of court).]~~ sections
6 702 (relating to change by order of court) and 702.1 (relating
7 to change by administrative application).

8 Section 5. This act shall take effect in 60 days.