

**UNIFORM PRACTICE XXXV**

**CHANGE OF NAME ACTIONS**

**(a) Scope.** Pursuant to G. L. c. 210, § 12, a petition for the change of name of a resident of Massachusetts may be heard by the division of the Probate and Family Court (hereinafter “the Court”) in the county where the petitioner resides. If the petition for the change of name is for a minor child, the minor child shall be listed as the petitioner. The minor child’s legal parent(s) or any court-appointed guardian(s) as next friend will present the petition to the Court.

**(b) Separate Petition Required.** To seek a name change, a petition for a change of name must be filed unless:

(1) A party in a divorce case seeks to resume that party’s birth surname or that of a former spouse prior to the issuance of the judgment of divorce (G. L. c. 208, § 23); or

(2) An individual seeks to change the name of the person to be adopted as part of an adoption proceeding (G. L. c. 210, § 6); or

(3) A parentage judgment includes an order to amend the name of the child in an Order to Amend Birth Certificate (G. L. c. 209C, § 8; see also G. L. c. 46, § 13(d)(4)).

**(c) Proper Filing.** A properly filed name change request includes:

(1) A Petition to Change Name of Adult or Petition to Change Name of Minor on a form issued and approved by the Court;

(2) A certified copy of the birth certificate of the person whose name is to be changed. Any birth certificate containing foreign language must be accompanied by a professional English language translation. The translator must provide a notarized statement of the accuracy of the translation and self-certification of their ability to translate;

(3) A Court Activity Record Information (CARI) and Warrant Management System (WMS) Release Request form (CJP 34) (for the name change of any person 12 years of age or older);

(4) A certified copy of any prior name change (i.e., marriage certificate, divorce decree, court order changing name);

(5) The filing fee, including the fee for any citation (unless the filing fee is waived by the Court pursuant to G. L. c. 261; see also section (d) and section (f)(4) of this Uniform Practice); and

(6) If the petition seeks to change the name of a minor, the following additional requirements:

(A) The notarized assent of any minor 12 years of age or older;

(B) The death certificate of any deceased legal parent; and

(C) The Affidavit Disclosing Care or Custody Proceedings form.

**(d) Joint Filing Fee.** If an entire family seeks a name change or two or more children who have the same legal parents seek a name change, a separate petition must be filed for each person whose name is seeking to be changed, but the filing fee shall be assessed on one petition only (unless the filing fee is otherwise waived by the Court pursuant to G. L. c. 261).

**(e) CARI and WMS Check.** The Probation Department shall conduct a Court Activity Record Information (CARI) and Warrant Management System (WMS) check for any person 12 years of age or older who is the subject of a petition for a change of name.

**(f) Notice Requirements.** After the filing of a petition and payment or waiver of the filing fees, the Court shall set a return date and issue a citation. Rule 6 of the Supplemental Rules of the Probate and Family Court applies to such citations, except as changed below.

The petitioner, or the next friend in the case of a petition to change the name of a minor, shall cause citation notice to be made as follows:

(1) *Notice by Publication.* In all cases, pursuant to the requirement of G. L. c. 210, § 13, service shall be made to the public by publication unless the publication requirement is waived by the Court on motion for good cause shown<sup>1</sup>.

(2) *Additional Notice in Certain Cases Whether an Adult or Minor.* Before the Court may grant a change of name for any person who is incarcerated, on probation or parole, or who is committed to the Massachusetts Treatment Center as a sexually dangerous person, the petitioner must serve a copy of the petition and the citation by certified mail, return receipt requested, on the following:

(A) The Massachusetts Department of Correction, or the Massachusetts Parole Board, respectively; and

(B) The office of the prosecuting official (District Attorney, Attorney General, or United States Attorney) and the Sheriff's Office(s) in the jurisdiction where the conviction(s) or delinquency adjudication(s) occurred.

(C) For a person who is required, pursuant to G. L. c. 6, § 178C to register as a sexual offender, the petitioner must serve a copy of the petition and the citation on the Sex Offender Registry Board and the prosecuting official by certified mail, return receipt requested.

(3) *Additional Notice in Cases Involving Minors.* In addition to the notice requirements in (f)(1) and (f)(2) above, notice must be given to any legal parent who has not assented to the petition and to any court-appointed guardian who has not assented to the petition. Exceptions to the additional notice required under this section are as provided for in section (D) below. The citation shall be served with a copy of the petition, in the following manner:

(A) *Service Within Massachusetts.* Service within Massachusetts shall be made by mailing the citation and petition by certified or registered mail, return receipt requested.

(B) *Service Outside of Massachusetts.* If it appears from the petition that a person is outside of Massachusetts in any part of the United States, its Commonwealths or territories, or outside the United States, service of the citation shall be made by mailing the citation and petition by certified or registered mail, return receipt requested.

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<sup>1</sup> Examples of good cause shown may include that (a) the petitioner seeks to change a first/middle name only; (b) the change of name of a minor child is assented to by all persons interested; (c) publication poses a safety risk to an adult or minor child; and (d) the petitioner seeks to resume a former legal name.

(C) *Service When Address or Whereabouts Is Unknown or Service Cannot be Accomplished.* If it appears from the petition that the address or whereabouts of a legal parent or court-appointed guardian is unknown or if the address or whereabouts is known but service by certified or registered mail cannot be accomplished despite diligent efforts, on written motion setting forth the diligent efforts made to ascertain their address or whereabouts (see form CJP 31, Motion for Alternate Service and Affidavit of Diligent Search), the Court may order that service shall be made, either within or outside Massachusetts, by publication only or by any other manner approved by the Court. Whenever the Court orders alternate service under this subsection, the Court shall also require that a military affidavit be filed as to the person to be served by publication or other manner.

(D) *When Additional Notice is Not Required.* The additional notice required under section (3)(A), (3)(B) or (3)(C) above does not need to be given when: (i) the legal parent(s) and any court-appointed guardian(s) have assented in writing to the allowance of the petition and the notarized assents are filed with the Court (see form CJP 25, Petition to Change Name of Minor or form CJP 30, Assent to Petition to Change Name of Minor); (ii) a legal parent executes an adoption surrender in conformity with G. L. c. 210, § 2; (iii) a court has terminated parental rights; or (iv) the Court on motion for good cause has otherwise ordered or waived notice. This section does not impact the notice required by section (f)(1), *Notice by Publication*, or (f)(2), *Additional Notice in Certain Cases Whether an Adult or Minor*.

(4) *Joint Citation.* If an entire family seeks a name change or two or more children who have the same legal parents seek a name change, the Court shall issue one citation for purposes of publication or for any other notice requirements.

(5) *Proof of Notice.* Proof of notice, including proof of publication and certified or registered mailing shall be filed with the Court prior to allowance of the petition. When service is made by mail, proof of notice shall include a receipt signed by the addressee or other evidence of personal delivery to the addressee satisfactory to the Court.

**(g) Objecting to a Petition.** Any person may appear for purposes of objecting to the petition by filing an appearance prior to the return date listed on the citation and such appearances may not be stricken. Any person appearing in a proceeding for change of name has a right to be heard on the merits of the petition.

**(h) Hearing Not Required.** If no objections to the petition are filed, the Court, in its discretion, may act upon the petition without a hearing.

**(i) Proof of Change of Name.** If the Court grants the petition for the change of name, a certified copy of the decree shall issue. If requested, a Certificate of Name Change, under seal of the Court, may be issued by the registry upon payment of the proper fee (unless fees have been waived by the Court pursuant to G. L. c. 261).

**(j) Statutory Notification of Changes of Name.** Each register of probate shall, at a minimum, make an annual return in December of each year, or as otherwise may be required by G. L. c. 210, § 14, to the Commonwealth's Registry of Vital Records and Statistics under the supervision of the Commissioner of Public Health, and to the Commissioner of Probation of all changes of name which have been granted during that year in the division.

*Adopted June 5, 2018, effective August 1, 2018.*

**Reporter's Notes- 2018**

Practice XXXV governs change of name actions filed in the Probate and Family Court for which a separate petition is required. The Practice is adopted to clarify procedural omissions in the controlling statute, G. L. c. 210, § 12 *et seq.* The Practice, *inter alia*, makes clear the notice requirements in change of name actions for both adults and minors, including the statutory requirement to provide notice to the public by publication in all cases.