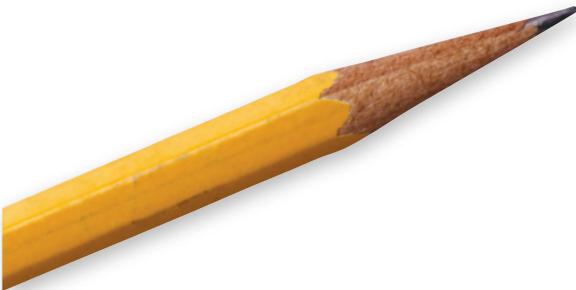




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A hand holding a red eraser is shown on the right side of the page, actively erasing the word "NAME" from the title. Small red eraser shavings are visible around the point of contact.

NAME CHANGES IN TEXAS



NAME CHANGES IN TEXAS



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Texas Young Lawyers Association
Family Law Committee
P.O. Box 12487, Capitol Station
Austin, TX 78711-2487
(800) 204-2222 Ext. 1800

For additional family law resources, visit www.tyla.org.

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TEXAS YOUNG LAWYERS ASSOCIATION

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CHANGE OF NAME IN TEXAS

Changing your legal name in Texas is a relatively simple process if the correct procedure is followed and all requirements are met. While most name changes are completed in conjunction with a marriage or a divorce, this pamphlet will largely address obtaining a name change as a separate, independent process. When a name change is part of a marriage, the change is made when obtaining a marriage license. In a divorce, the name change should be incorporated in the Final Decree of Divorce.¹

In almost all other circumstances, a request for change of name must be made in a petition filed with the court and the court must sign an order granting the person a new name. To permit a person to change their name, the court has certain requirements that must be met to insure that the change is not sought to avoid legal trouble. If the name change is for a child, there are added requirements that the parents or conservators of the child must be served and the name change must be in the best interest of the child.

A. Filing a Petition for a Change of Name

The first step in obtaining a name change is to file an Original Petition for Change of Name. A sample form for the Petition can be found at TexasLawHelp.org. The Petition must be filed with the district clerk of the county where the person requesting the name change, known as the Petitioner, resides.² The clerk will then assign the case to a specific court.

Petition for Adult:

According to Texas law, the Petition must be verified, meaning that the Petitioner must sign the Petition in the presence of a notary and swear that all of the information it contains is true. The Petition to change the name of an adult must also contain the following information:

- (1) the current name and place of residence of the petitioner;
- (2) the petitioner's sex, race, date of birth and social security number;

¹ See Tex. Fam. Code §§ 45.105, 45.106.

² Tex. Fam. Code §§ 45.001, 45.101.

- (3) the full new name requested for the petitioner;
- (4) the reason the change in name is requested;
- (5) whether the petitioner has been the subject of a final felony conviction;
- (6) whether the petitioner is subject to register as a sex offender under the requirements of Chapter 62, Code of Criminal Procedure;
- (7) driver's license number for any driver's license issued in the 10 years preceding the date of the petition;
- (8) assigned FBI number, state identification number, if known, or any other reference number in a criminal history record system that identifies the petitioner, or state that the petitioner has no FBI number or SID number;
- (9) any offense above the grade of Class C misdemeanor for which the petitioner has been charged or, if none exists, a statement that the petitioner has never been charged;
- (10) the case number and the court if a warrant was issued or a charging instrument was filed or presented for an offense listed in (9) above; and
- (11) a legible and complete set of the petitioner's fingerprints on a fingerprint card format acceptable to the Department of Public Safety and the Federal Bureau of Investigation.³

Petition for a Child:

If you are requesting the name change of a child, Texas law requires that the Petition requesting the name change be served by a constable or process server on each parent of the child that has not had their parental rights terminated or any managing conservator or guardian of the child.⁴ Additionally, a Petition for the Change of Name of a Child requires different information than a Petition for an adult's name change. The petition requesting the child's name change requires the following information:

- (1) the present name and place of residence of the child;
- (2) the reason a change of name is requested;
- (3) the full name requested for the child;

³ Tex. Fam. Code § 45.102.

⁴ Tex. Fam. Code § 45.003.

- (4) whether there has been a previous court order regarding the child and which court has continuing exclusive jurisdiction under Chapter 155 of the Texas Family Code;
- (5) whether the child is required to register as a sex offender under the requirements of Chapter 62, Code of Criminal Procedure; and
- (6) If the child is 10 years of age or older, the child's written consent to the change of name must be attached to the petition.⁵

B. Preparing and Entering an Order for Change of Name

After the Petition has been filed and properly served, if service is necessary, the Petitioner will have to schedule a time with the court's coordinator to appear before the judge and have an Order signed by the judge. Individual courts have differing policies on scheduling, so it is important to contact the coordinator of the court where the case is assigned to determine when to appear in front of the judge.

Order for an Adult:

Like the Petition, the Order for Change of Name that the judge will sign must contain certain information. The Order must not only contain the same information that is included in the Petition, but must also state that the name change is in the interest or to the benefit of the Petitioner and is in the interest of the public.⁶ A sample Order for Change of Name can be found at TexasLawHelp.org. When the Petitioner presents the order to the court, he or she must also testify in open court as to each of the things listed in the order.

The court must grant the name change if the Petitioner can show the court that he or she has not had a final felony conviction, is not required to register as a sex offender and that the change is in the interest or to the benefit of the Petitioner and in the interest of the public. Usually only sworn testimony of the Petitioner in open court is required for the court to make these findings. The Petitioner must also testify that the name change is not being requested for the purpose of evading creditors or liability.

⁵ Tex. Fam. Code § 45.002.

⁶ Tex. Fam. Code § 45.103(a).

If a Petitioner does have a final felony conviction, the court, at the judge's discretion, may order the name change if the Petitioner has been pardoned, received a certificate of discharge by the pardons and paroles division of the Texas Department of Criminal Justice or has completed a period of probation ordered by a court and not less than two years have passed from the date of the receipt of discharge or completion of probation.⁷

When the name change is requested for a child, the order must state and the Petitioner must show that the parents or other required persons have been served with the Petition for name change and that the required parties have agreed to the name change either by signing the order or testifying in court. If the matter is contested, the request for the name change must be set for a hearing with the court on a specific date and time and all necessary parties must be notified of the hearing. In addition to proving to the court that the proper parties have been notified and agree to the order, the Petitioner must show to the court that the name change is in the best interest of the child.

Order for a Child:

The Order for Change of Name for a Child must include the same information as the Petition, a statement that the change is in the best interest of the child and signed agreement of the parents or other required persons if the name change is uncontested.⁸ Factors that courts have considered proper in a best interest test are:

- (1) whether the changed name or the present name would best avoid embarrassment, inconvenience, or confusion for the custodial parent or the child;
- (2) whether it would be more convenient or easier for the child to have the same name as or a different name from the custodial parent, either the changed name or the present name;
- (3) whether the changed name or the present name would help identify the child as part of a family unit;
- (4) the length of time the surname has been used;

⁷ Tex. Fam. Code § 45.103(b).

⁸ Tex. Fam. Code § 45.004(a)(1).

- (5) parental misconduct, such as support or nonsupport or maintaining or failing to maintain contact with the child;
- (6) the degree of community respect associated with the present or changed name;
- (7) whether the change will positively or adversely affect the bond between the child and either parent or the parents' families;
- (8) any delay in requesting or objecting to name change;
- (9) the preferences of the child;
- (10) the age and maturity of the child;
- (11) when the child maintains the mother's surname, assurances by the mother that she would not change her name if she married or remarried; and
- (12) whether the parent seeking the change is motivated by an attempt to alienate the child from the other parent.⁹

If the child is required to register as a sex offender under Chapter 62, Code of Criminal Procedure, the person petitioning on behalf of the child must also show the court that the change is in the interest of the public and prove that the child has notified the appropriate local law enforcement authority of the proposed name change.¹⁰

C. After the Order is Entered

After the Order for Change of Name has been signed by the court, several government agencies and organizations must be notified of the name change. Among other offices, a person must notify the Social Security Agency and Department of Motor Vehicles to obtain a new social security card and driver's license. In addition to government agencies, credit card companies, banks, employers, insurance providers and other private organizations must be notified of the name change. Each group has different requirements as to how this information will need to be updated, so it is important to contact the individual organization to determine how to proceed with recording the name change. If proof of the name change is required, a name change certificate can be obtained from the district court clerk for a small fee. If a child's name has been changed and the child has been the subject of a custody or child support order, the person that obtained the name change for the child must also send a

⁹ See *In re Guthrie*, 45 S.W.3d 719, 225-26 (Tex. App.—Dallas 2001, pet. denied).

¹⁰ Tex. Fam. Code § 45.004(a)(2).

copy of the Order for Change of Name to the Central Record File at the Bureau of Vital Statistics.

Finally, it is important to remember that a court ordered name change does not release a person or a child from liability incurred in that person's previous name or defeat any right the person or child had in the previous name.¹¹ While a name change might be desired or necessary, the court will only allow a person to change his or her name for a legitimate reason. Changing your legal name may not be a difficult process, but it is certainly a process that should be respected and carefully considered.

¹¹ Tex. Fam. Code § 45.005.

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Public Information Department

State Bar of Texas

P.O. Box 12487

Austin, Texas 78711-2487

(800) 204-2222, Ext. 1800

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