

**101ST GENERAL ASSEMBLY****State of Illinois****2019 and 2020****HB3111**

by Rep. Kelly M. Cassidy

**SYNOPSIS AS INTRODUCED:**

|                     |                           |
|---------------------|---------------------------|
| 735 ILCS 5/21-101   | from Ch. 110, par. 21-101 |
| 735 ILCS 5/21-102   | from Ch. 110, par. 21-102 |
| 735 ILCS 5/21-102.5 |                           |
| 735 ILCS 5/21-103   | from Ch. 110, par. 21-103 |

Amends the Change of Name Article of the Code of Civil Procedure. Deletes language barring certain persons convicted of crimes from petitioning for a change of name. Provides instead that a person convicted of any offense for which a person is required to register under specified Acts is not permitted to file a petition for a name change while the person is required to register unless the person verifies that the petition for name change is due to marriage, transgender status, religious belief, or status as a victim of trafficking. Provides that any petition form shall include a warning that a person, with exceptions, commits a felony offense if he or she petitions for a change of name while required to register under specified Acts and has not been pardoned. Provides that if the petition indicates the petitioner has been adjudicated or convicted of a felony or misdemeanor offense for which a pardon has not been granted, or has an arrest or pending charge on a felony or misdemeanor offense for which a charge has not been filed, the circuit court clerk shall promptly serve a copy of the petition on the State's Attorney and the Department of State Police. Provides that the State's Attorney may file an objection if specified circumstances exist. Provides that if the court finds good cause, the court may waive the publication requirement and order that the record of the proceeding be designated confidential. Makes other changes.

LRB101 09934 LNS 55036 b

1           AN ACT concerning civil law.

2           **Be it enacted by the People of the State of Illinois,**  
3           **represented in the General Assembly:**

4           Section 5. The Code of Civil Procedure is amended by  
5           changing Sections 21-101, 21-102, 21-102.5, and 21-103 as  
6           follows:

7           (735 ILCS 5/21-101) (from Ch. 110, par. 21-101)

8           Sec. 21-101. Proceedings; parties.

9           (a) If any person who is a resident of this State and has  
10          resided in this State for 6 months desires to change his or her  
11          name and to assume another name by which to be afterwards  
12          called and known, the person may file a petition in the circuit  
13          court of the county wherein he or she resides praying for that  
14          relief.

15          (b) The filing of a petition in accordance with this  
16          Section shall be the sole and exclusive means by which any  
17          person committed under the laws of this State to a penal  
18          institution may change his or her name and assume another name.

19          A person convicted of any offense for which a person is  
20          required to register under the Sex Offender Registration Act,  
21          Murderer and Violent Offender Against Youth Registration Act,  
22          or Arsonist Registration Act in this State or any other state  
23          who has not been pardoned is not permitted to file a petition

for a name change in the courts of this State during the period the person is required to register unless the person verifies under oath, as provided under Section 1-109, that the petition for the name change is due to marriage, transgender status, religious belief, or status as a victim of trafficking. A person is not subject to felony charges if his or her request for legal name change is denied without proof of perjury. However, any person convicted of a felony in this State or any other state who has not been pardoned may not file a petition for a name change until 10 years have passed since completion and discharge from his or her sentence. A person who has been convicted of identity theft, aggravated identity theft, felony or misdemeanor criminal sexual abuse when the victim of the offense at the time of its commission is under 18 years of age, felony or misdemeanor sexual exploitation of a child, felony or misdemeanor indecent solicitation of a child, or felony or misdemeanor indecent solicitation of an adult, or any other offense for which a person is required to register under the Sex Offender Registration Act in this State or any other state who has not been pardoned shall not be permitted to file a petition for a name change in the courts of Illinois.

(b-5) A person convicted of a felony offense in this State or any other state whose sentence has not been completed or discharged is not permitted to file a petition for a name change in the courts of this State unless the person is pardoned for the offense.

1                   (c) A petitioner may include his or her spouse and adult  
2 unmarried children, with their consent, and his or her minor  
3 children where it appears to the court that it is for their  
4 best interest, in the petition and prayer, and the court's  
5 order shall then include the spouse and children. Whenever any  
6 minor has resided in the family of any person for the space of  
7 3 years and has been recognized and known as an adopted child  
8 in the family of that person, the application herein provided  
9 for may be made by the person having that minor in his or her  
10 family.

11                  An order shall be entered as to a minor only if the court  
12 finds by clear and convincing evidence that the change is  
13 necessary to serve the best interest of the child. In  
14 determining the best interest of a minor child under this  
15 Section, the court shall consider all relevant factors,  
16 including:

17                  (1) The wishes of the child's parents and any person  
18 acting as a parent who has physical custody of the child.

19                  (2) The wishes of the child and the reasons for those  
20 wishes. The court may interview the child in chambers to  
21 ascertain the child's wishes with respect to the change of  
22 name. Counsel shall be present at the interview unless  
23 otherwise agreed upon by the parties. The court shall cause  
24 a court reporter to be present who shall make a complete  
25 record of the interview instantaneously to be part of the  
26 record in the case.

(3) The interaction and interrelationship of the child with his or her parents or persons acting as parents who have physical custody of the child, step-parents, siblings, step-siblings, or any other person who may significantly affect the child's best interest.

(4) The child's adjustment to his or her home, school, and community.

(d) If it appears to the court that the conditions and requirements under this Article have been complied with and that there is no reason why the prayer should not be granted, the court, by an order to be entered of record, may direct and provide that the name of that person be changed in accordance with the prayer in the petition. If the circuit court orders that a name change be granted to a person who has been adjudicated or convicted of a felony or misdemeanor offense under the laws of this State or any other state for which a pardon has not been granted, or has an arrest for which a charge has not been filed or a pending charge on a felony or misdemeanor offense, a copy of the order, including a copy of each applicable access and review response, shall be forwarded to the Department of State Police. The Department of State Police shall update any criminal history transcript or offender registration of each person 18 years of age or older in the order to include the change of name as well as his or her former name.

(Source: P.A. 100-370, eff. 1-1-18.)

1                   (735 ILCS 5/21-102) (from Ch. 110, par. 21-102)

2                   Sec. 21-102. Petition; update criminal history transcript.

3                   (a) The petition shall set forth the name then held, the  
4 name sought to be assumed, the residence of the petitioner, the  
5 length of time the petitioner has resided in this State, and  
6 the state or country of the petitioner's nativity or supposed  
7 nativity. The petition shall include a statement, verified  
8 under oath as provided under Section 1-109 of this Code,  
9 whether or not the petitioner or any other person 18 years of  
10 age or older who will be subject to a change of name under the  
11 petition if granted: (1) has been adjudicated or convicted of a  
12 felony or misdemeanor offense under the laws of this State or  
13 any other state for which a pardon has not been granted; or (2)  
14 has an arrest for which a charge has not been filed or a  
15 pending charge on a felony or misdemeanor offense. The petition  
16 shall be signed by the person petitioning or, in case of  
17 minors, by the parent or guardian having the legal custody of  
18 the minor. The petition shall be verified by the witness  
19 affidavit of some credible person.

20                   (b) If the statement provided under subsection (a) of this  
21 Section indicates the petitioner or any other person 18 years  
22 of age or older who will be subject to a change of name under  
23 the petition, if granted, has been adjudicated or convicted of  
24 a felony or misdemeanor offense under the laws of this State or  
25 any other state for which a pardon has not been granted, or has

1       an arrest for which a charge has not been filed or a pending  
2       charge on a felony or misdemeanor offense, the State's Attorney  
3       may request the court to or the court may on its own motion,  
4       require the person, prior to a hearing on the petition, to  
5       initiate an update of his or her criminal history transcript  
6       with the Department of State Police. The Department shall allow  
7       a person to use the Access and Review process, established by  
8       rule in the Department, for this purpose. Upon completion of  
9       the update of the criminal history transcript, the petitioner  
10      shall file confirmation of each update with the court, which  
11      shall seal the records from disclosure outside of court  
12      proceedings on the petition.

13            (c) Any petition form completed under subsection (a) shall  
14            include the following statement: "WARNING: A person required to  
15            register under the Sex Offender Registration Act, Murderer and  
16            Violent Offender Against Youth Registration Act, or Arsonist  
17            Registration Act in this State or similar law in any other  
18            state who has not been pardoned commits a felony offense under  
19            those respective Acts by seeking to change his or her name  
20            during his or her registration period unless the person can  
21            demonstrate that the petition for a name change is due to  
22            marriage, transgender status, religious belief, or status as a  
23            victim of trafficking.

24            (Source: P.A. 100-370, eff. 1-1-18.)

1 Sec. 21-102.5. Notice; objection.

2 (a) If the petition indicates the petitioner, or any other  
3 person 18 years of age or older who will be subject to a name  
4 change under the petition, has been adjudicated or convicted of  
5 a felony or misdemeanor offense under the laws of this State or  
6 any other state for which a pardon has not been granted, or has  
7 an arrest or pending charge on a felony or misdemeanor offense  
8 for which a charge has not been filed, the ~~The~~ circuit court  
9 clerk shall promptly serve a copy of the petition on the  
10 State's Attorney and the Department of State Police.

11 (b) The State's Attorney may file an objection to the  
12 petition if the petitioner:-

13 (1) is the defendant in a pending criminal offense  
14 charge; or

15 (2) has been convicted of identity theft, aggravated  
16 identity theft, felony or misdemeanor criminal sexual  
17 abuse when the victim of the offense at the time of its  
18 commission is under 18 years of age, felony or misdemeanor  
19 sexual exploitation of a child, felony or misdemeanor  
20 indecent solicitation of a child, or felony or misdemeanor  
21 indecent solicitation of an adult, and has not been  
22 pardoned for the conviction.

23 (c) All objections shall be in writing, shall be filed with  
24 the circuit court clerk, shall be served upon the petitioner,  
25 and shall state with specificity the basis of the objection.  
26 Objections to a petition must be filed within 30 days of the

1 date of service of the petition upon the State's Attorney.

2 (Source: P.A. 100-370, eff. 1-1-18.)

3 (735 ILCS 5/21-103) (from Ch. 110, par. 21-103)

4 Sec. 21-103. Notice by publication.

5 (a) Previous notice shall be given of the intended  
6 application by publishing a notice thereof in some newspaper  
7 published in the municipality in which the person resides if  
8 the municipality is in a county with a population under  
9 2,000,000, or if the person does not reside in a municipality  
10 in a county with a population under 2,000,000, or if no  
11 newspaper is published in the municipality or if the person  
12 resides in a county with a population of 2,000,000 or more,  
13 then in some newspaper published in the county where the person  
14 resides, or if no newspaper is published in that county, then  
15 in some convenient newspaper published in this State. The  
16 notice shall be inserted for 3 consecutive weeks after filing,  
17 the first insertion to be at least 6 weeks before the return  
18 day upon which the petition is to be heard, and shall be signed  
19 by the petitioner or, in case of a minor, the minor's parent or  
20 guardian, and shall set forth the return day of court on which  
21 the petition is to be heard and the name sought to be assumed.

22 (b) The publication requirement of subsection (a) shall not  
23 be required in any application for a change of name involving a  
24 minor if, before making judgment under this Article, reasonable  
25 notice and opportunity to be heard is given to any parent whose

1       parental rights have not been previously terminated and to any  
2       person who has physical custody of the child. If any of these  
3       persons are outside this State, notice and opportunity to be  
4       heard shall be given under Section 21-104.

5                 (b-5) Upon motion, the court may issue an order directing  
6       that the notice and publication requirement be waived for a  
7       change of name involving a person who files with the court a  
8       written declaration that the person believes that publishing  
9       notice of the name change would put the person at risk of  
10      physical harm or discrimination. The person must provide  
11      evidence to support the claim that publishing notice of the  
12      name change would put the person at risk of physical harm or  
13      discrimination.

14                 (c) The Director of State Police or his or her designee may  
15      apply to the circuit court for an order directing that the  
16      notice and publication requirements of this Section be waived  
17      if the Director or his or her designee certifies that the name  
18      change being sought is intended to protect a witness during and  
19      following a criminal investigation or proceeding.

20                 (c-1) The court may enter a written order waiving the  
21      publication requirement of subsection (a) if:

22                         (i) the petitioner is 18 years of age or older; and  
23                         (ii) concurrent with the petition, the petitioner  
24      files with the court a statement, verified under oath as  
25      provided under Section 1-109 of this Code, attesting that  
26      the petitioner is or has been a person protected under the

1       Illinois Domestic Violence Act of 1986, the Stalking No  
2 Contact Order Act, the Civil No Contact Order Act, Article  
3 112A of the Code of Criminal Procedure of 1963, a condition  
4 of bail under subsections (b) through (d) of Section 110-10  
5 of the Code of Criminal Procedure of 1963, or a similar  
6 provision of a law in another state or jurisdiction.

7       The petitioner may attach to the statement any supporting  
8 documents, including relevant court orders.

9             (c-2) If the petitioner files a statement attesting that  
10 disclosure of the petitioner's address would put the petitioner  
11 or any member of the petitioner's family or household at risk  
12 or reveal the confidential address of a shelter for domestic  
13 violence victims, that address may be omitted from all  
14 documents filed with the court, and the petitioner may  
15 designate an alternative address for service.

16             (c-3) Court administrators may allow domestic abuse  
17 advocates, rape crisis advocates, and victim advocates to  
18 assist petitioners in the preparation of name changes under  
19 subsection (c-1).

20             (c-4) If the publication requirements of subsection (a)  
21 have been waived, the circuit court shall enter an order  
22 impounding the case.

23             (c-5) If the court finds good cause, the court may waive  
24 the publication requirement under subsection (a) and order that  
25 the record of the proceeding be designated confidential. Good  
26 cause includes, but is not limited to, evidence that

1       publication or availability of a record of the proceeding will  
2       place the petitioner or another individual at risk for physical  
3       harm or discrimination and evidence that the petitioner or  
4       another individual has been the victim of stalking or  
5       assaultive behavior.

6           (d) The maximum rate charged for publication of a notice  
7       under this Section may not exceed the lowest classified rate  
8       paid by commercial users for comparable space in the newspaper  
9       in which the notice appears and shall include all cash  
10      discounts, multiple insertion discounts, and similar benefits  
11      extended to the newspaper's regular customers.

12       (Source: P.A. 100-520, eff. 1-1-18 (see Section 5 of P.A.  
13      100-565 for the effective date of P.A. 100-520); 100-788, eff.  
14      1-1-19; 100-966, eff. 1-1-19; revised 10-4-18.)