

NAME CHANGES

**NAMING YOUR CHILDREN, RECORDING YOUR
CHILD'S NAME, CHANGING YOUR NAME,
CHANGING YOUR CHILD'S NAME**



**NEIGHBORHOOD
LEGAL SERVICES**

**A FAMILY LAW HANDBOOK SERIES PRODUCED BY
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The information provided in this booklet does not constitute legal advice and is based on the laws of Massachusetts as of the publication date.

It is always advisable to seek legal advice from an attorney.
A list of resources for is on the last page.

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This booklet is designed to answer some of the questions you may have about your rights regarding naming your children, recording your children's names, changing your name, or changing your children's names.

In particular, this booklet focuses on answering the following questions:

- Deciding a child's name
- Where a child's name is recorded; How a child's name is recorded
- Correcting birth records to reflect the child's biological father
- Changing your name
- Changing your children's names
- If the other parent objects to changing the child's names
- Some other Name-Related Issues
 - Adoption
 - Naturalization

Deciding a child's name:

Parents can name their child any name that they choose. The city or town clerk where the child was born records the child's name as instructed by the parents. The parents may give the child any first name and any last name that they wish. The child's last name may be the father's last name, the mother's last name, a hyphenated version of both names, or any other name.

However, if married parents disagree upon what name to use, they may have to go to court to resolve the dispute, and the child may end up with one parent's surname or a hyphenated version.

Where is my Child's Name Recorded?

The city or town clerk is responsible for recording information regarding the child's birth, including the child's name, the date and place of the birth, and the name of the father and mother, onto a birth certificate. If the child is born in a hospital, the information is generally reported by the doctor in charge. If the child is born at home, you are responsible for notifying the town or city clerk within 30 days after the child's birth.

How is my child's name recorded?

The mother's name is always recorded on the birth certificate. Whether the father's name is also recorded depends on the situation:

- ☆ If the mother is UNMARRIED, the father's name is not recorded on the birth certificate UNLESS BOTH the mother and father request by affidavit that his name be recorded as the father of the child.
- ☆ If the parents are MARRIED, the husband's name will be recorded on the birth certificate as the father. The husband will be recorded as the father even if he is not around and even if he is not the child's biological father. This is because any child born to a married couple is presumed by law to be the biological child of the husband. HOWEVER:

******* If you are MARRIED and your husband is NOT the father*******

1. If the husband's whereabouts are known, both he and the mother may sign affidavits available at Probate and Family Court that he is not the father. Then the husband's name is not recorded.
2. If the husband's whereabouts are unknown, and the mother signs an affidavit stating that his whereabouts are unknown AND that he is not the biological father, then the husband's name will not be recorded.

The biological father may, if he wishes, also file an affidavit stating he is the father. These affidavits are submitted to the court for approval. If your request is approved, the husband's name is not recorded and the biological father's name is recorded.

For information about How to Establish Paternity, please see *Information About How to Establish Paternity* available at the Lawyer-for-the-Day office and at Neighborhood Legal Services.

Correcting birth records to reflect the children's biological father:

If the mother is unmarried or married to someone who is not the biological father, paternity must be established in order to correct the birth records.

Paternity can be established when the biological father acknowledges paternity, i.e. admitting that they are the biological father of the child.

Changing your name:

A name can be changed at any time for any reason that is not dishonest or fraudulent. You do not have to go to court to do this. However if you do not go to court to officially have your name changed, you cannot obtain official documents (such as a passport or driver's license) in that name. To change your name officially, you must do the following.



File the following with the Probate & Family Court of the county in which you live:

- a. A petition for change of name (available at the court);
- b. The \$165 filing fee, subject to change. If you are low income, the fee may be waived. Check with court personnel to see if you qualify under the income guidelines for a fee waiver;
- c. A certified copy of your birth certificate or any other prior judgment or record amending your name. Foreign birth certificates must be properly translated to English.

IMPORTANT NOTE: When the petition for Change of Name is filed, the Court will request a copy of your criminal record from the Commissioner of Probation.



Give public notice that you are petitioning to change your name. This is done by publishing a notice in the local newspaper. You will get an order from the court stating that the information must be published and it will tell you which newspaper you must send the notice to. You should keep the original in a safe place. Fill in any blank spaces on the notice and send a copy to the newspaper asking them to publish it. There will be a fee for this service which varies. If your fees were waived by the court, send a copy of your approved

NOTE: For an adult, the requirement for providing public notice of the Name Change Petition can be waived for “good cause”. You must file a “Motion to Waive Publication Requirement” along with your explanation of why it should be waived. You may also wish to file a “motion to impound” so that the information in your file is kept confidential by the court.

Affidavit of Indigency along with the form to the newspaper explaining that the fee will be paid by the Commonwealth. Anyone who objects to your name change may do so by filing an appearance at the Probate Court.



Provide the court with proof that the notice was published. The newspaper will send you a copy of what was printed. If not, you can cut out the notice on the day that it was published. Take the publication and the original court notice to the Probate & Family Court for filing.



You will receive a notice of the date you must appear in Probate and Family Court. A judge may ask you to explain why you are changing your name. Name changes are generally allowed unless “inconsistent with public interests.” If your request is granted, the Court will issue a certificate of the new name.

Getting Divorced

If you are filing for a divorce or are involved in a divorce case, there is a box on the divorce complaint which you can check that allows you to resume your maiden name or a former married name without going through the name change procedure. You cannot obtain a new name in this way, only a former name. Also, you cannot change your child’s name through this procedure. For more information on how to proceed in a divorce case, please see:

Information About How to File Papers in the Essex Probate and Family Court

Changing your children’s names:

You must have custody of your children if you want to file a name change on their behalf. You follow the same procedure as changing your own name (see above). If you do not live with the child's other parent, you must send a copy of the petition to change the children's names to the other parent by certified mail in addition to publishing the notice in the paper. If you do not know that parent's current address, send the letter certified to the last known address. The post office will return the letter to you if it cannot be delivered. **DO NOT OPEN THE RETURNED LETTER.** File it with the court. If the other parent receives the certified letter, the post office will return a green card to you. File the card with the court.

If notifying the other parent will put the child's safety at risk, you may petition the court for permission to publish only the child's current name and to withhold publication of the new name. If you are changing your name and / or the child's name due to safety concerns, you should also consider changing your social security numbers. Contact the Social Security Administration for more information. Also for more information on this subject, contact the:

**Relocation Counseling Project
at Greater Boston Legal Services: 1-617-603-1557**

If the other parent objects to changing the children's names:

The court will decide based on what it believes to be in the children's best interest. Some courts look at the parent's relationship with the children, whether the parent pays child support on a regular basis, and the harm caused to their relationship if the name is changed.

BE PREPARED to provide the court with valid reasons why it would be better for the children's name to change. The court will not grant the name change simply because the parents do not get along or because one parent has remarried or changed their name.

Some other Name-Related Issues

Adoption. If you are adopting a child, you can petition for the child's name to be changed when the court issues the adoption decree.

Naturalization. If you are an immigrant who is going to be naturalized, you may change your name as part of the naturalization procedure. The procedure is somewhat different because it is governed by federal statutes. If you were an immigrant and have already undergone naturalization and wish to change your name, you will need to file a Name Change Petition at Probate and Family Court. However, since your birth certificate is in a foreign language, you must either have it officially translated or provide the court with your naturalization papers.

Important Reminder:

Keep a file of all documents you send to the court including the petition, your birth certificate, the newspaper notice, and anything else you provided. Bring these to court with you in case there is a problem.

Helpful Resources

Many Probate and Family Court Forms Can be Found at:
<http://www.mass.gov/courts/courtsandjudges/courts/probateandfamilycourt/forms.html>

General Information on family law issues can be found at: www.masslegalhelp.org

Lawyer-for-the-Day

Provides free assistance at the Courthouse in preparing forms and documents for those who are income eligible.

Probate and Family Court-Salem Division
36 Federal Street, Salem, MA 01970
Call the court at (978) 744-1020

*Monday, Tuesday, Wednesday
and Thursday mornings*

Probate and Family Court-Lawrence Division
Fenton Judicial Center, 2nd Floor
2 Appleton Street, Lawrence, MA 01840
Call the clerk's office at (978) 686-9692

Call the Court for the Schedule

Legal Services

Provides free legal services to those who are eligible.

Neighborhood Legal Services, Inc.
37 Friend St, Suite 300 Lynn, MA 01902
170 Common St, Suite 300 Lawrence, MA 01852
(781) 599-7730 and (978) 686-6900
www.neighborhoodlaw.org

*Provides direct representation, Pro Se
Divorce Clinic, and Helpline advice
to Southern Essex County*

Merrimack Valley North Shore Legal Services, Inc.
35 John Street, Suite 302
Lowell, MA 01852
(978) 458-1465
www.mvlegal.org

*Provides family law services to
Essex and Northern Middlesex Counties*

Reduced Fee Lawyer Referral Programs

Provides referrals to lawyers who may charge reduced fees. Call for eligibility requirements:

Boston Bar Association (*Greater Boston*)
16 Beacon St., Boston, MA 02108
(617) 742-0625
www.bostonbar.org/lrs/index.htm

Mass. Bar Association (*statewide*)
20 West St., Boston, MA 02111
(617) 542-9103, (866)-627-7577
www.massbar.org/lawhelp/need_lawyer/

National Lawyer's Guild
14 Beacon Street, Suite 407
Boston, MA 02108
(617) 227-7008
www.nlgmass.org/lrs

Essex County Bar Association
Shetland Office Park
45 Congress St, Ste. 4100
Salem, MA 01970
(978) 741-7888
www.essexcountybar.org

The Child Support Enforcement Division (CSE) of the Department of Revenue (DOR)

Provides assistance in establishing paternity and establishing, enforcing, and collecting child support.

Probate and Family Court-Salem Division
36 Federal Street
Salem, MA 01970
(978) 744-1020

Probate and Family Court-Lawrence Division
Fenton Judicial Center, 2nd Fl.
2 Appleton St., Lawrence, MA 01840
(978) 686-9692 (*open only Mon. & Wed. 8-1*)

The Family Law How-to Series includes:

Copies of these booklets are available at the Lawyer for the Day Office and Legal Services programs listed inside this booklet.

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- ◆ How to Fill Out a Financial Statement (Short Form)
 - ◆ Divorce and the Alternatives
 - ◆ The Department of Children and Families: Seeking Services, the 51A Investigation and Consumer Rights During an Investigation
 - ◆ Name Changes
 - ◆ Grandparent Visitation
 - ◆ How to Get Child Support
 - ◆ What Is Best for Your Child: Working Through Child Custody and Visitation Issues
 - ◆ Information about How to File Papers in Essex Probate and Family Court
 - ◆ Obtaining Child Support when Getting a Restraining Order: What You Need to Know
 - ◆ Information About How to Establish Paternity
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