

**OFFICE OF POLICY AND LEGAL ANALYSIS**  
**Bill Analysis**

**To:** Joint Standing Committee on Judiciary

**From:** Peggy Reinsch, Legislative Analyst

**LD 209 An Act Concerning Name Changes for Minors**

**Public Hearing Date:** February 18, 2021

**SUMMARY**

This bill clarifies and consolidates in a single section of Maine law the process and standards for changing the names of adults and minors. The current process to change the name of an adult is for the adult to file a petition in the Probate Court in the county where the adult lives, except when an adult is petitioning to change that adult's name pursuant to a divorce proceeding, and this bill does not change that.

This bill provides that a parent or guardian of a minor may file a name change petition for the minor in the Probate Court in the county in which the minor lives, unless the District Court has exclusive jurisdiction regarding the minor pursuant to the Maine Revised Statutes, Title 4, section 152, subsection 5-A, in which case the petition must be filed in District Court. The bill also permits a parent or guardian to request to change the minor's name as part of a proceeding concerning parentage or other parental rights with respect to the minor in the District Court. A separate petition is not required in these cases.

This bill defines "parent" and "guardian" for the purposes of changing the name of a minor.

This bill requires the parent or guardian who requests a name change for the minor in District Court to provide notice pursuant to the applicable rules of procedure to any other parent, any guardian, any guardian ad litem and any person or agency with legal custody of the minor and to the minor if the minor is 14 years of age or older. The court must provide an opportunity for those entitled to notice to be heard and may change the name of the minor if the court finds that the change is in the best interest of the minor.

This bill provides that a parent or guardian does not have to publish notice of a minor's name change unless the court orders that notice be published. It authorizes the court to make the request of a name change confidential or not public if the court limited the notice required for the name change.

This bill provides factors a court must consider to assess whenever a request or petition for a name change is in the best interest of the minor.

Because this bill consolidates the provisions governing the process for change of name, except in the case of annulment, divorce or adoption, it revises the provision in the Maine Parentage Act providing for change of name of a minor on determination of parentage.

**TESTIMONY**

**Proponents**

- Representative Harnett, presenter (written testimony)
- Melissa Martin, FLAC (written testimony)
- Mary Bonauto, GLAD (written testimony)
- Family Law Advisory Commission (FLAC) (written report)

- This bill clarifies the process for name changes for minors and provides a set of factors for courts to consider in evaluating whether to grant a request for a minor’s name change.
- Name changes for minors have traditionally happened in Probate Court only if all the parents agree to the name change.
- The Maine Parentage Act opened up a route for District Courts to order agreed-to name changes or contested name changes for “good cause.” In the past few years, the existing Maine Parentage Act language has led to some confusion about
  - (1) the types of proceedings in which the District Court can order a minor’s name change and
  - (2) the definition of “good cause”.
- In response to this confusion, FLAC researched the ways that minor name changes are handled in other states and discussed this topic over several meetings.
- LD 209 proposes clarifying that the District Court can change a minor’s name in any type of parentage proceeding, including divorces and post-judgment actions, but not in Protection from Abuse matters.
- LD 209 also clarifies what constitutes “good cause” by listing a series of factors specific to name changes that the Court can consider, in addition to referencing that the Court can consider any of the existing “best interest of the child” factors that courts use to make many decisions in family court cases.
- The result is that courts will have additional guidance from the factors, but discretion in evaluating these cases.
- Also, there will now be consistency in the factors evaluated in both the District Court and the Probate Court, therefore making the process consistent across courts in the state.
- Finally, LD 209 clarifies that any parent may request that the Court consider a potential name change for a minor.
- This bill clarifies the proceedings in which the District Court may consider a name change for a minor and the governing standards for those petitions.
- This bill rightly allows the court to change a minor’s name upon the agreement of the relevant persons, and also sets forth sensible factors for judicial consideration of a young person’s best interests when the relevant parties – parents, a guardian, a young person aged 14 or over, a person or agency with legal custody, or a guardian ad litem - do not agree about the name change.
- Among other things, we agree with FLAC that name change requests should be available in the Probate Courts as well as in the District Courts in proceedings involving parental rights of a minor.
- We support the bill’s authorization to consider name changes in emancipation petitions of 16- and 17-year-old minors, and to require broad notice to stakeholders
- A safe harbor exception exists so that the court “may limit notice required” when the minor is a victim of abuse or is in reasonable fear for their own or the petitioner’s safety. (proposed section 2-A)
- This bill also allows a court to order a name change upon agreement of the parties rather than requiring courts to be the gatekeepers for people’s choices about their names. This is consistent with Maine’s long tradition of respecting a person’s freedom to change their name (or that of their child) in a judicial process as long as the purpose is not to defraud others or contrary to the public interest.
- These factors are broad, particularly by incorporating the 19-A §1653 factors, and thereby allow disagreeing parties to address a wide range of concerns should they wish to do so. At the same time, it is important that the statutory factors begin with “the minor’s expressed preference,” when sufficiently mature to express a preference, and the minor’s point of view whenever they are age 14 or over. (proposed section 2-B (B)(1), (2)).

- Since a name is fundamental to a person’s identity, is deeply personal and also highly visible, it is essential for courts to hear from the minor about whether the proposed name is one they want to wear day in and out, whether it comports with their self-concept, or raises other concerns. This is and should be a vital consideration when a court assesses whether “the name change is in the best interest of the minor.”

### Opponents

- None

### Neither for nor against

- Kathleen Ayers, Maine Association of Registers of Probate (written testimony)
  - Willing to provide information and assist at the work session

### INFORMATION REQUESTED

- What is "due notice" for adult name changes (§1-701, sub-§2) – not amended in this bill, and not applicable to name changes for minors

### BACKGROUND

- Current law allows name changes for minors under the Uniform Maine Probate Code in 18-C §1-701 and in the Maine Parentage Act, 19-A §1843 when adjudicating parentage for "good cause shown."
- Under current law, the District Court emancipation process (15 §3506-A) does not include a reference to changing the minor's name, so a minor who successfully petitions for emancipation and wants a name change must separately petition the Probate Court
- The Law Court stated that “name changes are to be liberally granted” – *In re Boardman*, 2017 ME 131
- The Law Court recognized broad deference to individuals in changing their names – *In re Reben*, 342 A.2d 688 (1975) (under the common law)

### FISCAL IMPACT:

Not determined as of February 21, 2021