

How to change a minor's name in Illinois©

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The Self Help Legal Center
Southern Illinois University School Of Law
Carbondale, IL 62901
(618) 453-3217
e-mail: selfhelp@siu.edu

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Disclaimer — Please read

This packet of information was prepared to answer general questions and give general advice about the law in Illinois. This packet may or may not also include forms that you can use. When reading this packet or using the forms, keep in mind that the advice, information, and forms were created to assist readers with general issues, not specific situations, and as such does not replace the advice or representation of an attorney licensed to practice in the State of Illinois. Because of this and because of unanticipated changes in the law, the School of Law at Southern Illinois University and the person, institution, or agency who gave you this packet make no claim as to whether the use of this packet will achieve the result you desire and disclaim any responsibility for the consequences of any form prepared or action taken in reliance upon the information in this packet. If you are concerned or do not understand whether this packet will be of assistance to you or will apply to your specific situation, you should talk to an attorney who is licensed to practice in the State of Illinois. If you have any questions about this disclaimer, call the Self Help Legal Center.

Look for these symbols to tell you when to:



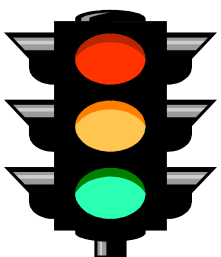
STOP!

You need legal representation or advice to continue.



USE CAUTION!

This is very important so pay attention.



GO!

You can proceed to the next step.



CHECK IT OUT!

This issue is discussed in another packet.

Warning to all readers



Before you proceed with using this packet, you should ask yourself the following questions:

1. Have I tried to consult a private attorney?

No self-help publication, packet, or form can replace the advice and experience of a licensed attorney. An attorney may not cost as much as you think, especially if you just need to ask questions. Before you proceed on your own, call several local attorneys, compare prices, and find out whether you can pay an attorney or not.

2. If I cannot afford an attorney, have I tried to find a free source of legal assistance?

There are several agencies which provide legal assistance for free to certain groups of individuals. Some of these agencies are listed to the right. While they may not be able to help you with a particular problem, it does not hurt to call them to find out before you proceed on your own.

3. Is this something that I can do on my own?

If you have trouble following directions, or have difficulty reading, writing, or speaking in public, you may not be able to follow the directions and advice in this packet. If this is the case, find a friend or someone who can help you before you proceed on your own.

Free sources of legal help

Land Of Lincoln Legal Assistance

Serves the 65 southernmost counties in Illinois

Toll Free: 877-342-7891

For additional information, you may visit their website at

[Http://www.lollaf.org](http://www.lollaf.org)

Prairie State Legal Services

Serves most of northern and north central Illinois outside of Cook County

815-965-2134

800-331-0617

Coordinated Advice and Referral Program for Legal Services

serving Cook County

312-738-9494

Will County Legal Assistance

Serving Will County

815-727-5123

How to use this self help packet



It is very important that you read each section of this packet completely before you take any action in regard to a legal problem including using any forms that supplement this packet.

Because this packet discusses terms and actions you are likely not familiar with, you will need to refer back to the following sections from time to time when reading this packet:

People you should know

This section describes people that you may come into contact with in regard to a particular legal problem. It is important that you understand who these people are and what they do and don't do.

What these legal terms mean

This section defines commonly used legal terms in words that you can understand. To use the rest of this packet and any supplemental forms, you need to understand exactly what these terms mean.

Summary of the law in this area

This section contains summaries of important areas of the law that you need to know.

How to file a document in a court file

This section answers commonly asked questions about filing documents.

Myths and Tips

These two sections discuss commonly held misbeliefs about the law and steps that you should take (or not take) that could make your task easier.



Who these people are



Judge:

The judge is the person who presides over the courtroom. In most cases, including child support cases, the judge makes all of the final decisions and approves all agreements. When a judge makes a decision or a finding, it has the force of law. The judge also sets and enforces court rules (like dress codes) and in some courthouses, the judge decides when cases are scheduled.



Circuit Clerk:

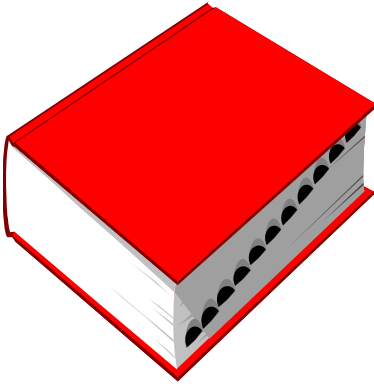
The Circuit Clerk is responsible for creating, managing, and updating court files. When you want to put something in a court file, see a court file, or make a copy of something in a court file, you talk to the Circuit Clerk's staff. In some courthouses, the Circuit Clerk also decides when cases are scheduled.



Attorney:

An attorney is someone who can help you with your legal problem by providing you with advice about the law, the legal system, and the merits of your case. An attorney can act as your advocate and can represent you in court and in negotiation settlements.

What these legal words mean



affidavit

A sworn statement by a person. Lying in an affidavit can result in a charge of perjury which could mean a fine, imprisonment, or both.

circuit

The judicial system in Illinois is divided into circuits. Each circuit defines a geographic area in Illinois.

defendant

A person who is sued.

divorce

The end of a marriage. The legal proceedings that you go through to end your marriage, divide property and debt and determine the custody and visitation for your minor child(ren).

hearing (trial)

An opportunity for both parties to tell the judge or jury their side of a dispute. Some hearings are court ordered so missing them can result in being held in contempt of court. For hearings which are not court ordered, failure to appear can result in the other side getting what they want in relief.

judgment

A final decision or order of the court.

jurisdiction

Whether the court in a particular state has the power to hear a case or to order someone to do something depends upon whether it has "jurisdiction". Jurisdiction can be either over a person or over a thing. For a state court to have jurisdiction over a person, generally, the person must either reside in the state or have committed an act in the state that gave rise to the case.

minor children

Children under the age of eighteen.

motion

A written or oral request to the judge after a lawsuit has been started (see petition).

What these legal words mean

notary public

A person who verifies that a signature on a document is made by the person whose signature appears. The notary public does not verify the content of the document itself.

petition

A written request to the court. A petition usually starts a lawsuit and contains the facts that one person alleges has happened along with the relief that they are requesting from the court.

plaintiff or petitioner

The person who starts a lawsuit.

pro-se

A person who is not represented by an attorney and is involved as a party in a lawsuit.

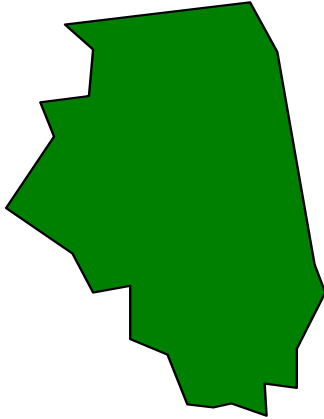
serve or service

The process where a person is officially notified of a pending lawsuit.

statute

The law that the state legislature or federal government enacted on a particular subject.

Summary of the law in this area



The law which governs name changes in Illinois is the Illinois Code of Civil Procedure. It can be found in Act 5, Section 21-101 of Chapter 735 of the Illinois Compiled Statutes.

Who can file for a name change for a child:

The biological parents of a child, or anyone having that minor in his/her family if the minor has resided in the family for 3 years and the minor has been recognized and known as an adopted child.

What the court considers when deciding whether to grant a name change for a child:

A name change shall be granted for a child only if the court finds by clear and convincing evidence that the change is in the best interests of the child. The court will take into consideration such factors as the wishes of the child's parents and any person acting as a parent who has physical custody of the child; the wishes of the child and the reasons behind those wishes; the relationship between the child and his parent/guardians and others who significantly affect the child's best interest; and the child's adjustment to their school, home, or community.

13 Steps To Getting A Name Change



Step One: Prepare the necessary forms to start the process.

In the supplement to this packet you will find 3 forms: the Notice of Filing of Petition For Change of Name, the Petition For Change of Name, and the Application to Sue as a Poor Person. Using the guide in the supplement to this packet, you will need to complete these forms.

The Notice of Filing of Petition is your notice to the public that you are going to be filing a petition in court to change the child's name. The Notice specifies the date that you are going to be filing your Petition.



The Petition is your formal written request to the court for a name change. The Petition is a very important form and needs to be completed carefully. If you do not request something in your Petition, the court cannot grant it to you.

The Application To Sue As A Poor Person is your request that the court waive the fees that are required for a person to file a Petition. The amount of these fees varies by county. Typically, only persons of low income will receive a fee waiver, but there is no statutory definition as to what level of income is required for a person to receive a waiver. Consequently, if you think you may be eligible — your best bet is to apply. Denial of a fee waiver will not impact your case except that you will have to pay a fee to file documents with the Clerk.



Step Two: Select the county where you will file your Petition

Select the county in which you will file your Petition. Most of the time, you will file your Petition in the county in which the child lives. The courthouse for your county is usually in the county seat. If you do not apply for a waiver of the filing fee — see below — you will have to pay to file your Petition.



Step Three: Apply for a waiver of the publication fee (if you want to)

Before you can file your Petition For Change of Name you will need to notify the public of your Petition. You will do this by placing an advertisement (the notice) in a newspaper. This process is called “publication”.



Do not use Packet 6 of the How to Serve Series to use the publication process for a name change.

Running a notice in a newspaper costs money. If you are unable to pay these costs, and you have already filed an Application to Sue As A Poor Person which was approved by the Court (see step one), you can file a motion with the court to have the county pay the costs of your notice. In the supplement to this packet you will find a Motion to Waive Publication Costs and an Order Waiving Publication Costs. If you want to apply for a waiver of the publication costs, you will need to complete this Motion and give it along with the Order to the Circuit Clerk and ask him/her to present to

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a Judge for approval. When filing your documents, make sure that you have 3 copies of each document — one for the file, one for you, and one that you will mail to the newspaper or the party you are trying to serve.

If your Application To Sue As A Poor Person was denied or if you did not file the Application, you will not be able to file for a waiver of the



publication costs.

Step Four: Wait to see if your Motion to Waive Publication Costs is approved

You will need to wait to see if your Motion To Waive Publication Costs is approved. You will know if your Motion is approved if the Order you gave the Clerk is returned with a Judge's signature. If it is approved, you can proceed without having to pay the cost of printing the Notice of Filing of Petition For Change of Name in the newspaper. Instead the county will pay for the costs of running the Notice.

If your Motion is not approved, you can still publish your Notice. You will, however, have to pay whatever fee the newspaper charges to pub-



lish your Notice.

Step Five: Complete the Notice of Filing and file it with the Clerk

You will find a Notice of Filing of Petition For Change of Name in the supplement to this packet. The Notice is the form that the newspaper will print. The Notice lets the public know that you intend to file your Petition For Change of Name on a certain date. While you will select what this date (deadline) is, it must be at least 6 (six) weeks after the date that the Notice first appears in the paper.

Keep in mind that you have little to no control as to when the newspaper will actually start running the Notice after they receive it from you in the mail. What this means is that if you choose a date which is only 6 weeks away, you are running the risk that by the time the newspaper actually gets the Notice and begins to run it, less than 6 weeks will be left by the time it first appears and the date you selected. Consequently, when completing the Notice, your best bet is to put a date at least 8 weeks after the date you mail it to the newspaper. This gives the paper 2 weeks to start running your Notice. When you have completed your Notice, file it with the Clerk and keep at least 3 file stamped copies for yourself.



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Step Six: Select what newspaper will print the Notice

The Notice must run in a paper which is published in the county where your lawsuit was filed. The newspaper must at least be a weekly paper. If there is no weekly paper in the county where your lawsuit was filed, you can use a paper in an adjoining county if the paper's circulation covers your county.



Step Seven: Send the Notice of Publication to the newspaper

In the Supplement to this packet you will find a form entitled Letter to Newspaper. You need to complete this Letter and send it along with a file-stamped copy of the Notice of Filing Of Petition For Change of Name to the newspaper you selected.

If you received an Order (signed by a judge) waiving the publication costs, you should send this Order to the newspaper along with the Letter and the Notice. If, however, you did not receive an order waiving the costs of publication, you will need to call the newspaper you selected and ask them how much it will cost to run your Notice once a week for 3 consecutive weeks. You will need to either include a check or money order in this amount with your Letter and Notice or you can ask the newspaper to bill you.



Step Eight: File your Petition on the date you listed in the Notice

You must file your Petition For Change of Name on the date you specified in your Notice of Filing of Petition For Change of Name.



Step Nine: Request/Get a hearing date:

Once you have filed your Petition you should request a hearing date to present your Petition.

Depending upon the county in which you filed your Petition, you will need to contact either the Circuit Clerk or the secretary of the judge who usually handles the name change cases to request a hearing date. You can do this either by phone, or by mail.



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Step Ten: Get and file the Certificate of Publication

When you notify someone of a lawsuit by publication, service is completed once the newspaper runs the Notice of Filing of Petition For Change of Name for 3 consecutive weeks. Your proof that the Notice has appeared in the newspaper for 3 consecutive weeks is the Certificate of Publication. This form is not included in the supplement to this packet because you must get this form from the newspaper.

After your Notice has run in the newspaper for 3 consecutive weeks, the newspaper should send you (or the Clerk) the Certificate of Publication. The Certificate is a letter or a form that the newspaper completes which certifies that the Notice ran for 3 consecutive weeks and includes a copy of the Notice that appeared in their paper. If you received a fee waiver (you did not pay for the costs of publication) the newspaper may send the Certificate of Publication directly to the Circuit Clerk to be filed.

If this is not the case, you must get this form from the newspaper and file it yourself. As always, be sure to keep a file-stamped copy for yourself.

Remember, this form is **required** to show that service by publication was completed.



Step Eleven: Prepare for the hearing:

You will need to prepare the Order For Change of Name. The Order is the document which the judge signs which awards the child's new name. Prepare your testimony using the Petition For Change of Name as your guide. You will need to testify about all of the facts you have alleged in your petition (the numbered parts of the Petition) and you will need to testify as to what you want the court to do (the letter parts of the Petition). If you ask the court to do something that was not in your Petition, you may have to either amend your Petition or you may not get it.



Step Twelve: Attend the hearing:

While there is no way to know exactly what will happen at your hearing. Here are some things you should do:

- Bring with you your copies of all the documents you filed with the Circuit Clerk and any other papers relating to your Petition.

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- Arrive at least 30 minutes before your hearing. Whatever you do, don't be late. Check the docket or ask the Clerk exactly what room you will be in. Tell the Clerk or the Judge's secretary that you are ready to proceed when called and wait for your case number and name to be called.
- When the Judge enters the courtroom, stand until you are told to be seated. When your case is called, approach the bench. Always refer to the Judge as "your honor".
- Before you begin, the judge may then ask you preliminary questions about your case. Be prepared to answer whether your spouse was served, and if so, when.
- To testify, you will need to call yourself as a witness. At this time, the Judge will put you under oath and you will present your testimony. when you testify, your testimony should include:

your present full name, first, middle and last name;
 your present address including city and state;
 the State or county where you were born;
 how long you have lived in Illinois; and
 the full name, first, middle, and last name that you would like the court to give the child.

If the Judge grants your Petition, present your Order for Change of Name to the Judge for his/her signature. If the Judge wants corrections made, don't panic, you can ask for permission to submit a corrected version by mail.



Step Thirteen: File your Order and get certified copies

After the Judge has signed the Order For Change of Name, you will need to file your Order with the Clerk. You should also get 3 certified copies of your Order so you can send them to different agencies (listed below) to change the child's name on their records. Please note that there may be a charge for this service.

Remember to hold on to your Order as it is your proof that you are entitled to support. If you lose your Order, however, don't panic, as with any document you file, you can always get another copy from the Circuit Clerk. You may, however, have to pay for the copies.

To change your child's birth certificate:

If your child was born in the State of Illinois, you will need to mail a certified copy of the Order to the Bureau of Vital Records, Illinois Department of Health, 605 West Jefferson, Springfield, IL 62702, so they can change the child's birth certificate. There is a charge for this service so you will need to call the Bureau to find out what the fee is before you send your Order.

If the child was born in a state other than Illinois, you should mail a certified copy of your Order to whatever department handles the birth records for that State. There will probably be a charge for this service so call before you send your Order.

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Q: What if my request is denied?

If your request for a name change was denied because you did not have enough evidence to support your request, then you will have to wait until the circumstances surrounding your request for support change before you can file another Petition. The reason for this is because once the court makes a decision about an incident or an event, it cannot address that same incident or event again.

If your request was denied because of some procedural error on your part (for example, you did not do the publication correctly), then you should correct the error and request another hearing.



Finally, whenever you lose in court, you have the right to request the court to reconsider its decision and you have the right to appeal the decision to a higher court. Please note that in most cases you have 30 days or less from the date of the judge's decision to exercise these rights or you may lose your right to reconsideration or appeal. You should seek the assistance of an attorney to exercise these rights.

Q&A about filing documents



Q: What is a court file?

A: The file is the way that the courthouse keeps track of a lawsuit.

The file includes all of the documents that were filed, notices of hearings, notes by the judge and clerk, and letters to and from the judge and clerk.

Q: When do you need to file a document in a court file?

A: Generally, you will file a document when you want to:

have evidence that a task was completed; record an event or a statement; or give notice to someone about something.

Q: What does it mean to file a document in a court file?

A: Generally, filing a document means giving the Circuit Clerk a copy of a document so that he/she can place it in the court file you want it to go in. When the Clerk files the document, he/she will stamp it with a stamp that says the date (and sometimes the time) the document was filed.

Q: Does filing a document make it legal?

A: No. The Clerk will not check to make sure that your document is in compliance with the law. Most of the time you can file anything you want as long as you are willing to pay for the filing costs. It does not mean, however, that what you have filed is correct.

Q: Why is filing so important?

A: Most of the time, filing is the primary way to show that you have met the deadline for something — either to initiate a lawsuit or to notify someone of a lawsuit or a hearing. Filing is also the way that you notify the court of your answer (response) to lawsuit started against you.

Please note that failure to file something on time can cause you to lose your right to proceed with your claim or you may be forced to start over.



Myths



4 Commonly held beliefs about changing your name which are not true:

I can change my child's name to whatever I want.

While most name change petitions are granted, the law gives the court the power to decline a person's request for a name change. Consequently, the court can refuse your request to change your child's name to a new name if there is a reason to decline your request.

I don't have to have a reason to change my child's name.

While the law does not specifically require a reason for you to change your name, the law gives the court the power to decline a person's request for a name change if there is a reason to decline the request. In these cases, you may need a reason to change your child's name.

I can change my children's names when I divorce.

You can only take a maiden or former name back when you divorce. You cannot change your children's names through a divorce action. You can only change your children's names through a separate lawsuit.

Tips



Give yourself some breathing room when deciding on what date to put on the Notice of Filing of Petition For Change of Name

When choosing the date that you are planning to file your Petition, there is a temptation to select the soonest possible date. Keep in mind, however, that there must be at least 6 consecutive weeks from the time your Notice first appears in the paper and the date you put on the Notice as to when you would be filing your Petition. Due to printing schedules and costs, a newspaper can't always run the Notice you mailed them in the week that they receive it. Also

keep in mind that not every piece of mail a newspaper receives is opened immediately. If you are not careful, therefore, there might not be 6 weeks between the date the Notice first appears and the date (deadline) you put on the Notice. The best advice, consequently, is to give yourself a little extra time by putting a date which is 8 weeks after the date you expect it to first appear in the paper.

Go to other name change hearings before yours

If your county courthouse has a special date when they schedule the name change hearings, try to attend at least one hearing before the date of your hearing. This way, you can watch what happens, (including what mistakes others make) take notes, and be more prepared for your hearing date.

Get help if you need it

If you have trouble following directions, doing things on time, filling out forms, or keeping track of paperwork, changing your child's name may be much more stressful than it needs to be. If, however, you have a friend you can help you do these things, the job will be a lot easier. Keep in mind, however, that a friend cannot take the place of the advice and experience of an attorney licensed to practice in the State of Illinois. Consequently, if you need legal advice or if obtaining your own name change proves to be too difficult a task for you, talk to an attorney.