

SENATE BILL REPORT

SB 5028

As Reported by Senate Committee On:
Law & Justice, January 19, 2023

Title: An act relating to revising the process for individuals to request name changes.

Brief Description: Revising the process for individuals to request name changes.

Sponsors: Senators Pedersen, Wagoner, Dhingra, Frame, Hunt, Keiser, Kuderer, Lias, Nobles, Randall, Saldaña, Shewmake, Stanford, Wellman and Wilson, C..

Brief History:

Committee Activity: Law & Justice: 1/12/23, 1/19/23 [DPS, DNP, w/oRec].

Brief Summary of First Substitute Bill

- Allows any person to file a name change petition in any district court in the state.
- Allows certain name change petitions to be filed in any superior court in the state and allows juvenile courts to adjudicate name change petitions of children subject to the juvenile court's original, exclusive jurisdiction.
- Requires the superior court to seal a granted name change file .
- Allows qualified legal services providers to file fee waiver affidavits on behalf of persons seeking a name change in district court.

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: That Substitute Senate Bill No. 5028 be substituted therefor, and the substitute bill do pass.

Signed by Senators Dhingra, Chair; Trudeau, Vice Chair; Kuderer, Pedersen, Salomon, Valdez and Wagoner.

Minority Report: Do not pass.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

Signed by Senators Padden, Ranking Member; McCune.

Minority Report: That it be referred without recommendation.

Signed by Senators Torres and Wilson, L.

Staff: Ryan Giannini (786-7285)

Background: Name Change Process. A person may apply for a name change to the district court in the jurisdiction where they reside. The petition must state the reasons for the name change, and the court in its discretion may order the name change. A copy of the name change order is sent to the county auditor for recording.

A person may apply for a name change to a superior court when the person or the person's child or ward is a victim of domestic violence, and the person seeks to have the name change file sealed due to a reasonable fear for the person's safety or that of the person's child or ward. The superior court must seal the name change file if the court finds that safety concerns for the person for a whom a name change is sought warrants sealing the file.

Name Change Fees. The total cost of changing one's name varies by county and includes both court fees and the county auditor's fees. The auditor's fees include the fee for filing and recording name change orders, which is \$5 for the first page and \$1 for every subsequent page. There are also various statutory surcharges that the auditor is required to collect.

Waiver of Court Fees. Washington court rules provide a process for an indigent individual to apply to waive court fees and clerk's fees when the payment of fees is required for the individual to secure access to judicial relief. A person seeking a waiver must submit a financial statement to the court. If the motion is granted, the court waives the court fees and clerk fees.

Summary of Bill (First Substitute): Any person desiring a change of the person's name or the person's child or of an individual subject to guardianship for whom the person has been appointed as guardian, may apply for a name change to any district court in the state.

Name change petitions may be filed in any superior court in the state:

- when a person desiring a change of name is an emancipated minor or has received asylum, refugee, or special immigrant juvenile status; or
- when the reason for the person's name change, or the name change of the person's child or of an individual subject to guardianship for whom the person has been appointed as guardian, is related to gender expression or identity, or is due to an experience of or reasonable fear of domestic violence, stalking, unlawful harassment, or coercive control.

Juvenile courts may adjudicate or grant concurrent jurisdiction to another court to hear a name change petition of a child subject to any juvenile court or public assistance proceedings in which the court has exercised original, exclusive jurisdiction.

A superior court that grants a name change shall seal the name change file. Name change files may not be open to inspection except upon order of the court for good cause shown, or upon request of the person whose name was changed or by the person's guardian or representative.

Offenders under the jurisdiction of the Department of Corrections and sex offenders who are subject to registration requirements cannot petition a superior court for a name change, but may still apply to any district court in the state.

A person seeking a name change or a qualified legal service provider may petition the district court to waive all fees for filing, transmitting, and recording a name change, unless the person has received victim compensation for name change fees.

EFFECT OF CHANGES MADE BY LAW & JUSTICE COMMITTEE (First Substitute):

- Requires superior courts to seal granted name changes.
- Prevents name change files from being open to inspection except upon order of the court for good cause shown or upon the request of the person whose name change was granted or the person's guardian or representative.
- Allows juvenile courts to adjudicate or grant concurrent jurisdiction to another court to hear a name change petition of a child subject to any juvenile court or public assistance proceedings in which the court has exercised original, exclusive jurisdiction.
- Restores statutory language regarding the collection of fees and transmission of name change orders to the county auditor for name changes granted by a district court.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Original Bill: *The committee recommended a different version of the bill than what was heard.* PRO: It is really hard for transgender people to change their name without people easily finding out their former identity. Current law requires that people experience domestic violence before a person can request a sealed name change. Other states have removed requirements that a person must show harm before

a name change file can be sealed. Many transgender and nonbinary people currently do not feel safe enacting a name change since the records are unsealed. Passing this bill will protect transgender people, people escaping violence, and juveniles under guardianship from others wishing to do them harm. This bill will also make the name change process more accessible. This bill is consistent with the Washington Constitution and the right to privacy.

OTHER: If a name change is filed in superior court, there is no reason to file a record with the county auditor. Recording with the county auditor would create a public record and defeat the purpose of sealing a name change. There is fear that this process could be abused or manipulated by somebody trying to escape accountability later on. This is not the intent of the bill and such instance would be rare, but this should not be allowed to inadvertently happen.

Persons Testifying: PRO: Senator Jamie Pedersen, Prime Sponsor; Maia Xiao; Gabriel Neuman, GSBA; Rebekah Gardea, QLaw Foundation; Dusty LaMay; S. Annie Chung, Legal Counsel for Youth and Children; Dana Savage, Qlaw Bar Association of Washington.

OTHER: Josie Delvin, Washington State Association of County Clerks; James McMahan, WA Assoc Sheriffs & Police Chiefs.

Persons Signed In To Testify But Not Testifying: No one.