

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
NEIGHBORHOOD LEGAL SERVICES
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MASSACHUSETTS BAR FOUNDATION**

(2010)

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 is available 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.

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.

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.

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 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.

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.



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.

Commonwealth of Massachusetts

The Trial Court

Probate and Family Court Department

Docket No. _____

Division _____

Change of Name(s)

Name of Petitioner _____
First Name Middle Name Last Name

(Street Address) (City/Town) (State) (Zip)

Date of Birth _____ Place of Birth _____

Name of Spouse _____
First Name Middle Name Last Name

Date of Birth _____ Place of Birth _____

Names of Minor Children

Reason for change

Have parties ever changed their names before? _____ If answer is yes, explain

Petitioner(s) request(s) that his/her/their name(s) be changed as follows:

Name at Present:

To be changed to:

Petitioner	_____	_____	_____	_____	_____	_____
	First Name	Middle Name	Last Name	First Name	Middle Name	Last Name
Spouse	_____	_____	_____	_____	_____	_____
	First Name	Middle Name	Last Name	First Name	Middle Name	Last Name
Child	_____	_____	_____	_____	_____	_____
	First Name	Middle Name	Last Name	First Name	Middle Name	Last Name
Child	_____	_____	_____	_____	_____	_____
	First Name	Middle Name	Last Name	First Name	Middle Name	Last Name
Child	_____	_____	_____	_____	_____	_____
	First Name	Middle Name	Last Name	First Name	Middle Name	Last Name

Date _____

SIGNATURE OF PETITIONER

SIGNATURE OF SPOUSE (if joint petition)

Signature of Minor(s) as signed by father or mother as next friend.

DECREE

Notice having been given according to the order of the Court, and no objection being made, it is decreed that the above name(s) be changed as requested, which name(s) he/she/they shall hereafter bear, and which shall be his/her/their legal name(s).

Date _____

JUSTICE OF THE PROBATE AND FAMILY COURT

Change of Name form instructions

SEE G.L. c.210, Sections 12, 13 and 14


A certified copy of the birth certificate for each party must be filed with petition.

If a name has been previously changed by decree of court or at marriage, either a copy of record of birth so amended, a copy of such decree or, a copy of record of marriage must be filed with this petition.

SEE Uniform Fee Schedule for applicable filing fees.

Attorneys are required to file Uniform Counsel Certification form.

Note: You must fill out and file this form if you are trying to change the name of a minor in your custody. BEFORE COMPLETING, READ INSTRUCTIONS ON BACK OF PART 2 TYPE OR PRINT WITH A BALLPOINT PEN - - PRESS HARD

AFFIDAVIT DISCLOSING CARE OR CUSTODY PROCEEDINGS	TRIAL COURT OF MASSACHUSETTS	DOCKET NUMBER
Pursuant to Trial Court Rule IV	Name Of Case _____	

<input type="checkbox"/> Boston Municipal Court	<input type="checkbox"/> District Court	<input type="checkbox"/> Juvenile Court	<input type="checkbox"/> Probate & Family Court	<input type="checkbox"/> Superior Court
	Division	Division	Division	Division

Section 1 I, _____, hereby declare, to the best of my knowledge, information, and belief that all the information on this form is true and complete:

Section 2 The name(s) of the child(ren) whose care or custody is at issue in this case are:
 A. _____ B. _____ C. _____
(LAST, FIRST) (LAST, FIRST) (LAST, FIRST)
 Use only the letter appearing in front of the child's name above when referring to that child in completing the remaining sections.

Section 3 The party filing this affidavit may request certain addresses to be kept confidential if the address is a shelter for battered persons and their dependent child(ren), or the party filing this affidavit believes that he/she or the child(ren) are in danger of physical or emotional abuse, or the party is filing an action under G.L.c.209A. If you believe that this provision applies to you, check the box at the right, complete sections 10 and 11 on the reverse side of this page and DO NOT complete sections 4 and 5 below.

Section 4 The address(es) of the above-named child(ren) whose care or custody is at issue in this case are:
 Address(es) _____ Address(es) During Last 2 Years, if Different _____
 CHILD A. _____
 CHILD B. _____
 CHILD C. _____

Section 5 My address is: _____

Section 6 I have have not participated in and I know do not know of other care or custody proceedings involving the above-named child(ren) in Massachusetts or in any other state or country.

Certified copies of any pleadings or determinations in a care or custody proceeding outside of Massachusetts listed in sections 7 and 8 must be filed with this affidavit unless already filed with this court or an extension for filing these documents has been granted by this court.

Section 7 The following is a list of all pending or concluded proceedings I have participated in or know of involving the care or custody of the above-named child(ren):

Letter of Child	Court	Docket No.	Status of Case (Custody awarded to) (Date of award)	Witness (Party) (Other) (None)
CHILD _____	_____	_____	_____	[]
CHILD _____	_____	_____	_____	[]
CHILD _____	_____	_____	_____	[]

Section 8 The names and addresses of parties to care or custody proceedings involving any of the above-named child(ren) or those claiming a legal right to these child(ren) during the last two years (not including myself) are:

Letter of Child	Name of Party/Claimant	Current (or last known) Address of Party/Claimant
CHILD _____	_____	_____
CHILD _____	_____	_____
CHILD _____	_____	_____

Section 9 If the box at the right is checked, this affidavit discloses the adoption of one or more of the above-named child(ren) and I am requesting the court to impound this affidavit. See instructions.

This affidavit must be personally signed by the party listed in section 1 above, unless he/she is under 18 years of age or has been adjudged incompetent in which case the attorney of record must sign. A revised affidavit must be filed with the court if new information is discovered subsequent to this filing.

Signed this _____ day of _____, 19____ under the penalties of perjury.

X _____
 SIGNATURE OF PARTY OR ATTORNEY OF RECORD FOR INCOMPETENT/JUVENILE PRINTED NAME OF PERSON SIGNING

ADDRESS OF ATTORNEY OF RECORD FOR INCOMPETENT/JUVENILE _____

THE PARTY FILING THIS AFFIDAVIT MUST FURNISH A COPY OF IT TO ALL OTHER PARTIES TO THIS ACTION.

Note: This form can be found on the reverse side of the Affidavit Disclosing Care or Custody. ADDRESSES TO BE KEPT CONFIDENTIAL Proceedings. Fill out only if you checked the box in Section 3.

ADDRESSES TO BE KEPT CONFIDENTIAL

ADDRESSES TO BE KEPT CONFIDENTIAL

The party filing this affidavit may request certain address(es) to be kept confidential if the address is a shelter for battered persons and their dependent child(ren), or the party filing this affidavit believes that he/she or the child(ren) are in danger of physical or emotional abuse, or the party is filing an action under G.L. c. 209A. If you checked the box in section 3 indicating that you believe the above provision applies to you, complete sections 10 and 11 below, and DO NOT complete sections 4 and 5.

Section 10

The address(es) of the child(ren) listed in section 2 whose care or custody is at issue in this case are:

Child(ren)	Address(es)	Address(es) During Last 2 Years, If Different
Child A.	Street Address	Street Address
	City, State, Zip Code	City, State, Zip Code
Child B.	Street Address	Street Address
	City, State, Zip Code	City, State, Zip Code
Child C.	Street Address	Street Address
	City, State, Zip Code	City, State, Zip Code

Section 11

My address is: _____
Street Address, City, State, Zip Code

LIST OF ATTORNEYS AND GUARDIANS AD LITEM/INVESTIGATORS

Please list the names of all attorneys and guardians ad litem involved in the pending proceedings listed in section 7.

Section 12

- _____
Attorney(s) for child(ren). (Please specify if each child is represented by a different attorney.)
- _____
GAL(s)/Investigator(s) (Please indicate if a GAL has been appointed to represent a specific child.)
- _____
Attorney(s) for mother.
- _____
Attorney(s) for father

(Fill Out Below If Applicable)

I, _____ attorney for D.S.S. or its agent have ascertained from the above checked off attorney(s) and guardian(s) ad litem/investigators a willingness to accept an appointment from the court to represent the same party should the court elect to make such an appointment.

(Signature)

READ BEFORE COMPLETING AFFIDAVIT

A. WHAT IS AN "AFFIDAVIT DISCLOSING CARE OR CUSTODY PROCEEDINGS"?

It is a document signed under the penalties of perjury which lists information required by Trial Court Rule IV concerning the child(ren) involved in a care or custody proceeding.

B. WHO MUST FILE THIS AFFIDAVIT?

The party to a petition (including a modification petition) or complaint involving the care, custody visitation, or change of name of a child pursuant to G.L. c. 119 (except delinquency actions under G.L. c. 119), G.L. c. 201, G.L. c. 207, G.L. c. 208, G.L. c. 209, G.L. c. 209A, G.L. c. 209C, G.L. c. 210, or any other provision of law concerning the care or custody of a child must file this affidavit.

This affidavit **must be signed by the party**, unless the party is under 18 years of age or has been adjudged incompetent, in which case the attorney of record must sign this affidavit on behalf of the juvenile or incompetent party.

C. WHEN MUST THIS AFFIDAVIT BE FILED?

The person filing the petition or complaint must file this affidavit at the time of filing, and the other party must file this affidavit with the first pleading.

This affidavit should be filed upon issuance of a CHINS petition pursuant to G.L. c. 119, not upon application for such a petition.

This affidavit need not be filed if the petition or complaint is for **support only**.

D. WHERE MUST THIS AFFIDAVIT BE FILED?

The completed affidavit must be filed, in person or by mail, with the Clerk-Magistrate or Register of Probate in the court in which this action is being brought.

E. WHEN MUST A REVISED AFFIDAVIT BE FILED?

A revised affidavit must be filed with the Clerk-Magistrate or Register of Probate if new information is discovered subsequent to the filing of this affidavit.

F. WHAT MUST BE FILED AS PART OF THIS AFFIDAVIT?

Certified copies of each pleading and of any determination entered in a foreign country or in a state other than Massachusetts must be filed with this affidavit unless these documents are on file with the court in this case, or an extension has been granted by the court for filing these documents.

INSTRUCTIONS FOR COMPLETING AFFIDAVIT

When completing this affidavit if additional space is needed for any of the sections, attach a separate sheet which includes your name (printed), the docket number and the sections to which you are referring. You must also sign and date the sheet.

The party filing this affidavit **must** complete the section entitled "Name of Case" and indicate the Court Department and Division in which the case is being brought. The docket number should also be listed, if known.

DO NOT COMPLETE SECTIONS 2, 3, 4, 8 AND 10 IF THIS AFFIDAVIT IS BEING FILED WITH A PETITION FOR ADOPTION.

- Section 1** You must print your first and last name. If this affidavit is being filed by an attorney on behalf of an incompetent person or juvenile the name of the party on whose behalf this affidavit is being completed must be listed.
- Section 2** List the names of all child(ren) involved in this care or custody proceeding. All future references to the child(ren) listed in this section should be with the letter in front of the child's name (e.g. If John Smith is listed next to the letter A, all future references to John Smith will be as Child A).
- Section 3** Check the box if this section applies to you. If this box is checked, **do not complete Sections 4 and 5**. You must complete Sections 10 and 11 on the reverse side of page 1.
- Sections 4 & 5** List the present and all prior addresses during the last two years of the above-named child(ren) and your present address. If legal custody of a child has been awarded to a social service agency, list the name and address of the agency with legal custody.
- Section 6** Check the appropriate boxes.
- Section 7** List all pending or concluded proceedings which you have participated in or know of involving the care or custody of the child(ren) named in this affidavit. Indicate the letter of the child; the court in which the case was heard; the docket number; the person(s) to whom custody was awarded and the date of the award; and the nature of your participation in the proceeding by listing "W" for witness, "P" for party, "O" for other or "N" for none. If specific information required in this section is not known, you or your attorney should contact the court where the case was heard to obtain such information. **In the case of a petition for adoption, list all information except the person(s) to whom custody was awarded, the date of the award and the nature of your participation. Under the heading "Status of Case", indicate the type of case.**
- Section 8** List the name(s) and current residential address(es), if known, otherwise the last known address(es) of parties to care or custody proceedings or persons claiming a legal right to the above-named child(ren) during the last two years. Do not include yourself.
- Section 9** Check this box if this affidavit discloses the adoption of a child and you are requesting the court to impound this affidavit. If this provision is applicable, you should contact the Clerk-Magistrate or Register of Probate for assistance concerning the appropriate motion to be filed.
- Sections 10 & 11** **COMPLETE ONLY IF YOU CHECKED THE BOX IN SECTION 3.** List the present and all prior addresses during the last two years of the child(ren) listed in Section 2 of this affidavit and your present address. If legal custody of a child has been awarded to a social service agency, list the name and address of the agency with legal custody.
- Section 12** List the attorneys and guardians ad litem/investigators previously appointed in the pending actions listed in Section 7.
- Signature** The party listed in Section 1 must date and sign this affidavit except for an incompetent person or juvenile, in which case the attorney of record on behalf of the juvenile or incompetent party must date and sign this affidavit and print his/her name and address.

THIS AFFIDAVIT MUST BE FILED WITH THE COURT AND A COPY FURNISHED BY THE PARTY FILING IT TO ALL OTHER PARTIES TO THE ACTION.

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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