



LAW OFFICE OF
BRYAN FAGAN
— PLLC —



CHILD NAME CHANGE IN HOUSTON, TX

WORK WITH A HOUSTON ATTORNEY

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INTRODUCTION

Thank you for downloading our special report: about Child Name Change, with information that will help you protect your assets and secure your future. For more insider divorce tips, please download our other special reports about Dirty Divorce Tricks, How to Plan and Prepare for Divorce, and Divorce after 50. We understand that you have a lot of questions and concerns about your divorce and we want to help you feel as comfortable with the process as we can. If you would like to speak to one of our highly skilled Law Office of Bryan Fagan, PLLC attorneys, we encourage you to contact us to schedule a free confidential consultation. We're here for you, always. Sincerely, Bryan Fagan, Law Office of Bryan Fagan

EXPERIENCED LEGAL ASSISTANCE FROM OUR HOUSTON FAMILY LAW ATTORNEY

There are many circumstances that warrant changing a child's legal name. If both parents agree on the name change, the process is often cost-effective and quick. By contrast, if both parents cannot agree on the name change, the issue may need to be resolved through a court hearing.

If you are interested in changing your child's legal name, whether or not your spouse agrees, our Houston family law attorney at the Law Office of Bryan Fagan, PLLC can help. We have a comprehensive knowledge of the Texas legal system and can help you navigate the potential complexities of the name change process.

- How do I change my child's name in Texas?
- How Do I Change My Child's Last Name and Add My Name to the Birth Certificate in Texas?
- Can I change My Child's Last Name Without Father's Consent?

THE PROCESS OF CHANGING A CHILD'S NAME

The child's parent or legal guardian may file a name-change petition in the county where the child lives. On the petition, the parent must also write down the reason for the change of name, the requested full names, and if there was a previous court order involving the child.

If the child is 10 years of age or older, the petition must include the child's written consent. In general, the court will grant the name change if the child provides a written consent—even if one parent objects. The court will change a child's name if it decides it is in the best interest of the child. If the parents do not agree on the name change, you need to obtain legal representation from a skilled attorney.

LET US GUIDE YOU THROUGH THE LEGAL PROCESS

We understand that change a child's name can be a complicated issue, especially when it's being contested. Our Houston family lawyer can protect you and your child's rights from start to finish and ensure that you obtain a favorable outcome.

HOW DO I CHANGE MY CHILD'S NAME IN TEXAS?

There are a number of circumstances in which a parent, guardian or other conservator of a child may want the child's last name to be changed. At minimum, a request to change a child's name must state the reason why the child's name should be changed, the child's current name, the requested "new" name of the child and where the child resides currently. A Consent to Name Change must also be filed if the child is over ten years of age.

A court will use a best interests of the child standard to make this determination of whether to grant the motion. Of the persons entitled to being notified of a person's intent to change the name of the child are:

- the other parent (if their parental rights have not been terminated)
- any guardian of the child
- a person adjudicated to be a managing conservator of the child



If the biological father of the child needs to be served and agrees to the name change, then the process can be a smooth and relatively quick one. However, if the biological father does not agree to the name change, then he may file a response to the lawsuit and seek to go before a judge to show that it is not in the child's best interest to have their name changed.

Another issue that can complicate or at the very least delay the process is if the biological father is difficult to find and/or has not been in contact with the person attempting to file the lawsuit. A court will require that the father be given notice. If personal service is not possible for reasons that are beyond the control of the lawsuit's filer then a court can agree to substituted service (often through service by publication). A party will need to have an affidavit completed which states the circumstances of why personal service was not possible and the efforts undertaken to ascertain the location of the biological father.

Along with the name change of a child, documents that are often filed concurrently are requests for the court to issue an order stating the biological father of the child. In some instances when a child's birth father is listed incorrectly on their birth certificate it is necessary for a paternity test to be administered to correct the mistake. In this sort of situation, the Department of State Health Services must be contacted to ensure that no other party has acknowledged paternity. From there, genetic testing may be ordered from the court in order to ensure that the correct man is determined to be the father of a child.

One of our associate attorneys recently handled the name change of a teenage girl whose biological father was not listed on her birth certificate. The child's mother was our client and she requested the name change once a paternity test showed a man different than the one listed on her birth certificate to be her biological father. Our client wanted her daughter's name to be changed in order to limit any confusion for the daughter as she aged about who her actual father was. Other common reasons for seeking a name change for a child are to help identify the child as part of a family unit and to allow this change to occur as early as possible in the child's life.

While the process is an involved one, the impact on a child's life can last a lifetime. With an undertaking such as this, it is important to have an experienced attorney available to assist you. The attorneys with the Law Office of Bryan Fagan, PLLC are representatives who are able to advocate for persons who are interested in changing the name of one of their children.

HOW DO I CHANGE MY CHILD'S LAST NAME AND ADD MY NAME TO THE BIRTH CERTIFICATE IN TEXAS?

It is not uncommon for fathers who consult with me regarding obtaining their father's rights to ask about changing their child's last name and adding their name to child's birth certificate. There are many reasons why their name may not have been on the birth certificate or the child's mother chose a different last name for the child than the fathers.

I would say the number one reason reported to me by both fathers and mothers was the father was not present for the child birth. I have heard many reasons for this from:

- ☑ "I was not invited" from a father to
- ☑ "The father was invited and he was there at first but he left to go be with his girlfriend" from a mother

In today's blog post we will discuss 1) why being present at a child's birth matters in regards to naming a child and father's name being on a birth certificate and 2) What can be done if your name does not make it onto the birth certificate in Texas 3) How you can change the last name of your child

BEING PRESENT AT YOUR CHILD'S BIRTH CAN HAVE LEGAL SIGNIFICANCE

There are a multiple of reasons why it is a good idea to be present at your child's birth. As a father, myself it was never a question in my mind on whether I would be present. The experience of becoming a father begins the moment your child is born. Becoming a father, starts on the journey of a lifetime.



One of the complaints I receive from fathers who miss the birth of their child is that their name is not on their child's birth certificate and the mother chose a different last name. By being absent at the time of their child's birth they were also absent when the following forms get filled out at the hospital:

- Acknowledgment of Paternity
- Mother's Worksheet for Child's Birth Certificate

WHAT IS AN ACKNOWLEDGMENT OF PATERNITY?

The voluntary signing of an Acknowledgement of Paternity (AOP) form is one of 5 ways to establish paternity. Usually this is done at the hospital soon after the child's birth because of convenience. The child's mother and father are usually there together and eager to secure the child's legal connection to his or her father.

Most parents come to the hospital planning for the father's name will be on the birth certificate. In Texas, a man who is not married to the child's mother must sign the AOP before his name can go on the birth certificate. Thus, if a father is not married to the other and not present at the child's birth then the mother will not be able to add the child's father's name to the birth certificate without the father signing this form.

GETTING THE CHILD'S BIRTH CERTIFICATE AMENDED

Two ways to get a child's birth certificate amended include:

- Outside of Court if there have been no court proceedings started
- Through the Courts in Texas

OUTSIDE OF COURT

If the Acknowledgement of Paternity (AOP) form was not completed in the hospital it may later be completed outside of the hospital by agreement with the mother. However, this is a form that you and the mother cannot complete by yourself. In fact, the form is restricted and only available through certified entities.

The form must be witnessed by someone who has taken a special Acknowledgement of Paternity course and who has been assigned a certified entity code. This is a course that must be annually renewed. The witness must read warnings to those signing the form of the legal significance of doing so. This generally why it is often easier to take care of this in the hospital which is equipped for this purpose.

Once an AOP has been completed and received by the State Health Department Vital Statistics Unit from all parties of the AOP, you must complete an Application Based on Parentage form. This form is used to change and add a father to the birth certificate. This form may also be used to change the child's last name at the same time.

THROUGH THE COURT SYSTEM

If not everyone will sign the Acknowledgement of Paternity, then it will be necessary to establish paternity through the court system. A court order is all necessary to establish:

- Rights and Duties
- Visitation
- Child Support

Thus, if you are looking to do more than get your name listed as the father on a birth certificate or change the last name of the child then it may be necessary to seek these remedies through the court. The cause of action that you will filing will be a Petition to Adjudicate Paternity.

In your Petition, you can ask for your paternity be established and the birth certificate be amended.



FACTORS A COURT WILL CONSIDERED

This is a decision of the court will be based on the “best interest of the child.” Currently the Texas Supreme Court has identified what factors should be considered when determining if a name change is in a child’s best interest. But appellate courts in Texas and other jurisdictions have identified many such nonexclusive factors. The 14TH District Court of Appeals in Houston in “In Re H.S.B. 401 S.W.3d 77 (Tex. App -Houston [14th Dist.] 2011) provided the following factors as being the most relevant in the majority of cases:

- ☑ the name that would best avoid anxiety, embarrassment, inconvenience, confusion, or disruption for the child, which may include consideration of parental misconduct and the degree of community respect (or disrespect) associated with the name,
- ☑ the name that would best help the child’s associational identity within a family unit, which may include whether a change in name would positively or negatively affect the bond between the child and either parent or the parents’ families,
- ☑ assurances by the parent whose surname the child will bear that the parent will not change his or her surname at a later time,
- ☑ the length of time the child has used one surname and the level of identity the child has with the surname,
- ☑ the child’s preference, along with the age and maturity of the child, and
- ☑ whether either parent is motivated by concerns other than the child’s best interest—for example, an attempt to alienate the child from the other parent.

CAN I CHANGE MY CHILD'S LAST NAME WITHOUT FATHER'S CONSENT?

There are numerous reasons why someone would want a name change for their child. A name change can signal a new chapter for someone life, get rid of baggage associated with the name, or even changing a child’s last name to their new stepparents’ name. Whatever the reason should be you should be informed about the legal process of what it takes to get your child’s name legally changed.

WHO, WHERE, AND HOW DO I GET A NAME CHANGE?

To begin, only a parent, guardian, or any other conservator can have a child’s name change. Yes, this means that a child themselves cannot get a name change even if they wanted. This is because for a child’s name, or with any person for that matter, to get a legal name change this will need to be done in court. Any other informal name changes are not legal and will not be legally recognized.

The process begins by filing a petition for a name change and must be done in the county in where the child lives. This means you will not be able to get a name change from just any county judge; the child must meet the residency requirement of living in that county.

The requirements of the petition itself will ask some important information regarding the name change like the reason for the name change request, why the name change should be granted, the “new” requested full name, and inform the court if there are any previous court orders involving the child who’s name you seek to change.

HOW MUCH WILL IT COST?

While name changes are not free, there is also no set price on how much it will cost. This is because every county will have a different filing fee. It would be best to contact a district clerk’s office in the county you plan to file to find those amounts. However, most attorneys will easily have that information available to them.

If you are not able to afford any attorney to represent you in your name change matter, or if you are not even able to represent yourself as a pro se, meaning without any legal representation, you may file a Statement of Inability to Afford Payment of Court Costs. You will need to prove your substantial need for these court fees to be waived.



WHAT IF I ONLY HAVE A MINOR CHANGE?

There are scenarios where a parent may make a minor error on a child's birth certificate for example if there are mistakes in the spelling of the child's first, middle, or last name. I have met some people that are under the belief that even with these minor changes there would need to be a court order fixing those mistakes.

However, this belief is not true. These minor changes can be corrected through a birth certificate amendment. This can be done by filling out form VS-170 and mailing it into the Texas Department of State Health Services (DSHS).

This form and the methods to mail it in can be found on the DSHS website itself. They offer a free downloadable PDF form for both birth and death certificate amendments. If you have more questions regarding these minor amendments you can visit the DSHS website at <https://www.dshs.texas.gov/vs/reqproc/amendment.shtm>.

CONSENT TO NAME CHANGES

The next important part in the name change process involves consent. This means that either one of more of the parties will have to consent to having a name change.

To begin, it is easiest and most cost-efficient method for both parents to be in agreement with each other regarding the name change. If you are one parent on your lonesome petitioning to have your child's name change you will need to give the other parent notice to the name change. The only way to get around this part is if one of the parent's parental rights have legally been terminated by a court order. In that instance, the other parent would not need to be noticed about the name change, but will need to notice any other court ordered conservator or guardian.

If you must notice the other parent, and the parent is in agreement, then both parents can file the requests together giving mutual consent. However, things become more difficult and costly when one parent does not agree. In this instance, the other parent would need to be served with the petition of the name change by either a constable, sheriff, or private process server. In these instances, it would be wise to have an attorney who is experienced with working with a process server. The above mentioned is true for any parent regarding legal notice even if the other parent is not listed on the child's birth certificate.

DOES MY CHILD HAVE TO AGREE?

If you have a child under the age of 10 years old a court will not require the child's actual consent to the name change. However, if you have a child over the age of 10, they must consent to the name change themselves in order for it to be granted. Typically, if a child gives their written consent their name change will be granted over the objection of one parent.

Remember any court order involving children will always be made in regard to what is in the "best interest of the child." There are specific factors considered in name changes that have been defined by the Texas Supreme Court and other appellate courts in Texas. Some of the factors can include: if the name change will help the child avoid embarrassment, anxiety, inconvenience, etc.; if the child has used that name for a long period of time and how they identify with it, etc. There are many factors to consider when courts consider changing a child's identity.

I DON'T KNOW WHERE THE OTHER PARENT IS?

If you are looking to give legal notice to the other parent about a name change but are unsure of their whereabouts, you may be able to give that notice through a publication like a newspaper, online, etc. In this instance the other parent will need to have their rights represented through an Attorney Ad Litem, which the parent filing the petition will have to hire. This also goes for any parent who doesn't know who the other parent of their child is: an attorney ad litem will be needed along with service by publication.





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WE'RE HERE FOR YOU

When it comes to your financial future, your peace of mind matters. No matter where you are in the divorce process, we are always available to help you protect your assets and safeguard your future. As a Texas law firm exclusively devoted to divorce and family law, our experienced divorce attorneys will explain your options and support you throughout the process. Please contact us at (281) 810-9760 if you would like to schedule a free confidential consultation

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