

October 2007

FACT SHEET: FAMILY LAW - CHANGING CHILDS NAME

Who may apply?

Parents of the child, who are domiciled, residence of NSW or their birth is registered in NSW may apply to the Registry of Births, Deaths and Marriages to change their child's name.

Who must consent to name change?

Both parents must consent to the name change. If the child is over 12 years of age, they must also consent. Consent of the child is not required if the child is unable to understand the meaning & implications of the change of name.

Where one parent seeks the name change

One parent may make an application for a change of a child's name if:

- they are the only parent named on the birth certificate; or
- there is no other surviving parent of the child; or
- the court approves the proposed name change.

Applying for court approval to change child's name

If a parent is unable to obtain consent from the other parent to change the child's name, they may apply to the Family Court for approval of the name change by filing an 'Application for Final Orders'.

Prior to applying to the court, the parent must demonstrate that they have made reasonable attempts to obtain consent from the other parent, including attending dispute resolution.

If attempts to obtain consent are unsuccessful and a parent is intending to make an application to the court, they must notify the other parent of their intention, make a genuine offer to settle and provide the other parent with an opportunity to respond.

There are exemptions to the requirement to attempt to resolve the dispute prior to making an application to the court. The exemptions are as follows:

- it is an urgent matter;
- there are allegations or risks of child abuse or family violence;
- there is a dispute that genuinely cannot be resolved;
- a person would be prejudiced or negatively affected if the other were given notice of an intention to commence proceedings.

If the change of name is to be determined by the court, it will consider whether change in child's best interest. The Court may examine:

- need for child to retain connection with the parent the child does not live with;
- the likelihood of the child experiencing confusion of identity;
- any embarrassment to the child;
- the short & long term effects.

The parent may need to provide evidence that the name change is in the child's best interest. For example:

- the child suffers embarrassment and/or sense of rejection because of surname;
- the child has had no contact with the other parent for at least 12 months;
- wishes of child to change name.

Consent or Court Order Obtained

If the other parent consents to the name change, they must complete and sign the application.

If a court order is granted allowing the name change, it must be forwarded to the NSW Registry of Birth, Deaths and Marriages.

Application

Application must be made on 'Statutory Declaration to Register A Change of Name – Child (under 18yrs)' Form (available from Registry of Birth Deaths & Marriages).

Identification Requirements

When making an application to the Registry, each parent must provide at least 3 forms of identification. If the child is born in NSW, they must provide 1 form of identification for the child.

If the child was not born in NSW must provide birth/citizenship certificate & 1 other form of identification. Must also provide evidence of at least 3 months residence in NSW (For example: bank statement, school report, utility bills). Documents must be 3 – 6 months old.

Fees

Court Fees: \$145 filing fees (parent may apply for waiver of fee if they hold a concession card or can demonstrate financial hardship)

Registry Fees: Urgent applications (processed in 24 hours) - \$168.00

Non-urgent applications (processed in 5 working days) - \$128.00

Contacts

NSW Registry of Births, Deaths & Marriages: 1300 655 236

Family Court Newcastle: 1300 352 000

Disclaimer: This fact sheet provides general information and does not provide legal advice. If you have a legal issue, you should contact a lawyer before making a decision about what to do or applying to a court.

