

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011

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HOUSE BILL 805  
PROPOSED COMMITTEE SUBSTITUTE H805-PCS50344-RW-40

Short Title: Additional Name Change Requirements.

(Public)

Sponsors:

Referred to:

April 7, 2011

A BILL TO BE ENTITLED

AN ACT AMENDING THE NAME CHANGE STATUTE TO INCLUDE A CRIMINAL RECORD CHECK AND OTHER REQUIREMENTS BEFORE THE CLERK OF SUPERIOR COURT MAY GRANT OR DENY A NAME CHANGE APPLICATION.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 101-5 reads as rewritten:

"§ 101-5. Clerk Name change application requirements; grounds for clerk to order or deny name change; certificate and record.

(a) A person who desires to change his or her true name may apply to the clerk of superior court of the county where the person resides and must submit all of the following information to the clerk in support of the application for a name change:

(1) The applicant's true name, county of birth, date of birth, the full name of parents as shown on birth certificate, and the name sought to be adopted.

(2) The certified results of an official state and national criminal history record check.

(3) A sworn statement as to the following:

a. That the applicant is a bona fide resident of, and domiciled in, the county where the change of name is sought.

b. Whether or not the applicant has been adjudicated a bankrupt or is subject to a current judgment and, if so, where and when.

c. Whether or not the applicant has outstanding tax or child support obligations.

(b) The clerk shall instruct the applicant on the process for having fingerprints taken and submitted for the criminal history record check, including providing information on law enforcement agencies or acceptable service providers. The clerk may require the applicant to provide any other information that the clerk determines is reasonably necessary for the fair and complete review of the name change application.

(c) The clerk shall review all the information contained in the application and otherwise available to the clerk to determine whether there is good and sufficient reason to grant or to deny the name change.

(d) If the clerk ~~thinks~~ finds that good and sufficient reason ~~exists~~ reasons exist for the change of name, and the applicant has met the requirements of subsection (a) of this section, it shall be his is the clerk's duty to issue an order changing the name of the applicant from his that



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1 person's true name to the name sought to be adopted. ~~Such~~ The order shall contain ~~the~~ all of the  
2 following:

3 (1) The true name, the county of birth, the date of birth, the full name of parents  
4 as shown on birth certificate, and the name sought to be adopted.

5 (2) The clerk's summary of the information reviewed in connection with the  
6 application.

7 ~~He~~ The clerk shall issue to the applicant a certificate under ~~his~~ the clerk's hand and seal of  
8 office, stating the change made in the applicant's name, and shall also record ~~said~~ the  
9 application and order on the docket of special proceedings in his court. ~~He~~

10 (e) The clerk shall forward the order granting the name change ~~to~~ to:

11 (1) The State Registrar of Vital Statistics on a form provided by ~~him~~ the  
12 Registrar. If the applicant was born in North Carolina, the State Registrar  
13 shall note the change of name of the individual or individuals specified in  
14 the order on the birth certificate of that individual or those individuals and  
15 shall notify the register of deeds in the county of birth. If the applicant was  
16 born in another state of the United States, the State Registrar shall forward  
17 the notice of change of name to the registration office of the state of birth.

18 (2) The Division of Criminal Information at the State Bureau of Investigation,  
19 which shall update its records to show the name change.

20 (f) If the clerk finds that good and sufficient reasons exist to deny the applicant's  
21 request for a name change, it is the clerk's duty not to issue an order changing the name of the  
22 applicant from that person's true name to the name sought to be adopted. The order denying the  
23 name change shall state the reasons for the denial. If the applicant desires to appeal the clerk's  
24 decision, the applicant must petition the chief resident superior court judge within 30 days of  
25 the date of the order denying the name change to request a reconsideration of the application.  
26 The reconsideration decision of the chief resident superior court judge is final and not subject  
27 to appeal. An unsuccessful applicant on reconsideration is subject to a waiting period of 12  
28 months from the date the adverse decision of the chief resident superior court judge before the  
29 applicant may submit another name change application. A successful applicant on  
30 reconsideration shall be granted the name change by the clerk in like manner as prescribed by  
31 subsection (d) of this section.

32 (g) Upon information obtained by the clerk of fraud or material misrepresentation in the  
33 application for a name change, the clerk on his or her own motion may set aside the order  
34 granting the name change after notice to the applicant and opportunity to be heard. If the clerk  
35 sets aside the name change order, the clerk shall notify the State Registrar of Vital Statistics  
36 and the Division of Criminal Information."

37 **SECTION 2.** This act is effective when it becomes law and applies to applications  
38 under G.S. 101-5 made on or after that date.