

# HOUSE BILL REPORT

## SSB 5028

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### As Passed House:

March 24, 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:** Senate Committee on Law & Justice (originally sponsored by Senators Pedersen, Wagoner, Dhingra, Frame, Hunt, Keiser, Kuderer, Lias, Nobles, Randall, Saldaña, Shewmake, Stanford, Wellman and Wilson, C.).

### Brief History:

#### Committee Activity:

Civil Rights & Judiciary: 3/15/23, 3/17/23 [DP].

#### Floor Activity:

Passed House: 3/24/23, 64-32.

### Brief Summary of Substitute Bill

- Allows a person to file a name change petition in any district court, instead of only in the district court of the judicial district in which the person resides.
- Eliminates the requirement that a name change petition state the reasons for the requested name change and instead requires the petition to set forth the person's desire for the name change.
- Expands the circumstances under which a name change petition may be filed in the superior court.
- Allows juvenile courts to adjudicate or grant concurrent jurisdiction to another court to hear a name change petition for a child subject to certain juvenile court or public assistance proceedings.
- Requires the superior court to seal a granted name change file and prohibits opening the file to inspection except for good cause shown or

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*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.*

upon request of the person whose name change was granted.

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## HOUSE COMMITTEE ON CIVIL RIGHTS & JUDICIARY

**Majority Report:** Do pass. Signed by 9 members: Representatives Hansen, Chair; Farivar, Vice Chair; Cheney, Entenman, Goodman, Peterson, Rude, Thai and Walen.

**Minority Report:** Do not pass. Signed by 1 member: Representative Graham, Assistant Ranking Minority Member.

**Minority Report:** Without recommendation. Signed by 1 member: Representative Walsh, Ranking Minority Member.

**Staff:** Yelena Baker (786-7301).

### **Background:**

#### Actions for Change of Name—District Courts.

A person seeking a change of the person's name or that of the person's child or ward may file a petition for change of name in the district court of the judicial district in which the person resides. The petition must state the reasons for the requested name change, and the court may order the name change in its discretion.

Upon granting a name change petition, the district court must collect authorized auditor's fees for filing and recording a name change order and transmit the fee and the name change order to the county auditor. If the person requesting a name change submits an affidavit stating that the person is unable to pay the fees due to financial hardship, the court must waive all fees for filing and recording a name change order and direct the county auditor or recording officer to process the name change order at no expense to the person. The court may not waive the fees if the person requesting a name change has received victim compensation for name change fees.

Offenders under the jurisdiction of the Department of Corrections and sex offenders who are subject to registration requirements may petition the district court for name change but must follow specified procedures.

#### Actions for Change of Name—Superior Courts.

Name change petitions may be filed in the superior court when:

- the person desiring a change of the person's name or that of 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 reasonable fear for the person's safety or that of the person's child or ward.

Upon granting the name change, the superior court must seal the file if the court finds that the safety of the person seeking the name change or the person's child or ward warrants sealing the file. Whether or not the name change petition is granted, there is no public access to any court record of the name change filing, proceeding, or order, unless the name change is granted but the file is not sealed.

Under General Rule 34 of the Washington State Court Rules, an indigent individual may seek a waiver of court and clerk's fees if the payment of such fees is required in order for the individual to secure access to judicial relief. An application for a waiver of fees must be accompanied by the individual's attestation as to the individual's financial status or, in the case of an individual represented by a qualified legal services provider, by a declaration of counsel stating that the individual was screened and found eligible by the provider. A "qualified legal services provider" means a not-for-profit legal services organization in Washington whose primary purpose is to provide legal services to low-income clients.

### **Summary of Bill:**

#### Actions for Change of Name—District Courts.

A person seeking to change the person's name or that of the person's child or an individual for whom the person has been appointed as guardian may file a name change petition in any district court, rather than only in the district court of the judicial district in which the person resides.

The requirement that the petition state the reasons for the requested name change is eliminated. Instead, the petition must set forth the person's desire for the name change.

An affidavit stating that the person seeking the name change is unable to pay the fees due to financial hardship may be submitted by a "qualified legal service provider," which has the same meaning as in General Rule 34.

#### Actions for Change of Name—Superior Courts.

Name change petitions may be filed in any superior court when a person desiring a change of name:

- is an emancipated minor; or
- has received asylum, refugee, or special immigrant juvenile status.

Additionally, name change petitions may be filed in any superior court if the reason a person seeking a change of the person's name or that of the person's child or of an individual for whom the person has been appointed as guardian is:

- related to gender expression or identity, as defined in the Washington Law Against Discrimination; or
- due to an experience or reasonable fear of domestic violence, stalking, unlawful harassment, or coercive control, as those terms are defined in state law related to civil

protection orders.

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

Upon granting the name change, the superior court must seal the file to protect the person's privacy or that of the person's child or of an individual for whom the person has been appointed as guardian. A sealed name change file 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 the person's guardian or representative.

Provisions that allow a name change petition to be filed in the superior court do not apply to offenders under the jurisdiction of the Department of Corrections and sex offenders who are subject to registration requirements.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.

**Staff Summary of Public Testimony:**

(In support) The basic idea behind the bill is that if a person falls into one of the three specified categories—a domestic violence survivor, a refugee, or a transgender person—the person can go to the superior court to have their name changed and to seal the name change records. In reality, this may create some significant life complications for people; it is hard enough to deal with a name change and try to get all of one's documents corrected. But for this group of people who have significant reasons to fear for their safety or who really want to leave their old name behind, this bill presents an option that is going to be useful.

Currently, in Washington a transgender person who changes their name cannot have the name change court records sealed. This creates situations where name change documents may be posted online to harass and embarrass the person. This bill allows transgender and nonbinary individuals a measure of safety around their identity that is similar to what is afforded already to domestic violence survivors. Other states like Oregon and New York allow the sealing of name change documents. Many asylum seekers are transgender individuals. In one case, an asylum seeker fled her home country due to transphobic abuse within her community. Her identity and her criminal history have been verified as part of the asylum process before she changed her name because she was fearful of having information available about her online. But because she hadn't experienced domestic violence, there was no mechanism for the court to exercise any discretion in her case.

The bill's language around unsealing name change records for good cause shown came from conversations with the sheriffs and police chiefs when the bill was still in the Senate. If there was any question about whether there was an attempt to evade law enforcement, there would be a way for a judge to allow the opening of the file to investigate that.

Current law already allows minors to have name changes with parental consent for a number of reasons, including fleeing domestic violence or in the context of dependency and juvenile litigation system. One example could be a child who is born substance-affected, and the parent is not in a mental state to give their child a name. Then, for one reason or another, they are not in contact with the state for a long period of time. At that point, there is a child who does not even have a legal name, and the courts throughout the state have differing opinions on how to handle that situation.

(Opposed) The bill goes too far to address an issue that does not sound like it is really that big of a deal, but the bill's effects could be broad reaching. There is concern that this bill, in combination with other bills that are being considered, exclude parents from the various aspects of some rather important personal choices that have long-lasting effects. These children may or may not need help, or they may just be attempting to escape their home situation for other reasons, but this type of law may be used to keep their parents at arm's length.

It is also important to be able to track a person for financial or civil litigation reasons. This law could be used to escape legal obligations, such as child support or any other civil damages for which a person may be responsible.

**Persons Testifying:** (In support) Senator Jamie Pedersen, prime sponsor; J. Denise Diskin, QLaw Foundation of Washington; and Dana Savage, QLaw Bar Association of Washington.

(Opposed) Eric Pratt.

**Persons Signed In To Testify But Not Testifying:** None.