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A GUIDE TO THE LAW IN ALBERTA REGARDING

CHANGE OF NAME

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GENERAL

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It is important for you to know that laws involved in changing your name are different in each province. The information in this pamphlet will tell you what the law is in Alberta.

YOUR LEGAL NAME

Your legal name is the name that was put on your birth certificate when you were born. Your legal name is your first and last names, and your middle names if you have any. There are legal rules about how names are to be chosen and how to change names; you should know the rules before you change your own name, name your children, or change your children’s names.

CHANGING YOUR OWN NAME

1. How Do You Change Your Name?

If you want to change your name you do not have to change it legally. You can just decide what you would like your name to be and then tell people like your family, friends, employer and co-workers that you would like them to call you by the new name. This is called changing your name by common usage. Once people have begun to call you by that name, you can have your identification changed to your new name; you might need to make an oath stating that people now call you by your new name for some identification changes. Also, you can change your signature to your new name and put your new name on legal documents. Remember that you can not change your name if you are trying to get out of having to pay money back that you owe, or for any other fraudulent reason.

You can make an application to change your name under the Change of Name Act if you want to legally change your name. Making a legal name change is the only way to get a new birth certificate with your new name on it. To change your name legally you must be at least 18 years old and you must be a resident of Alberta. You can get an application form to legally change your name by going to any Alberta Registries office. For the location nearest you, check the yellow pages of the phone book under License and Registry Services.

You will have to fill out an application and return it to a registry office with the required fees. Fees are collected by your local law enforcement

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agency to obtain your fingerprints. Fees are also collected by the registry agent for the provincial government name change fee, fingerprint registry fee, and a registry agent service fee. Check with your local law enforcement agency and local registry office for current fee amounts.

You can also change your name by completing a deed poll, which is a formal declaration stating that you now want to be called by a new name. Changing your name with a deed poll is not a legal name change but it is more formal than just changing your name with common usage and it may be easier to get new identification issued under your new name if you have prepared a deed poll.

2. Fingerprint Requirements

The Security Management Statutes Amendment Act (SMSA) requires every Alberta to submit their fingerprints when they apply for a legal name change. Fingerprints can be obtained from your local law enforcement agency and must be presented to the registry agent with your application. Children do not need to provide their fingerprints when you apply to have their names changed. You will also require identification to begin the process.

3. Getting Married

A woman does not have to change her last name to her husband's last name when she gets married; of course, a man also does not have to change his name when he gets married. Most people who change their names when they get married do not legally change their names; instead the name change is done through common usage.

Both men and women have many options on what to do with their names when they get married:

- a. A person can decide not to make any changes to his or her name.
- b. Either the husband or the wife can choose to change his or her surname to the other person's surname.
- c. Either the husband or the wife, or both, can decide to combine their two last names and/or hyphenate them. For example, Janell Cook and Moose Moonbeam could become Janell and Moose Cook-Moonbeam.

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- d. Married people can also decide to use the last name that they had at birth for legal purposes and a different last name for social purposes. For example, after Janell Cook marries Moose Moonbeam she can keep using Cook as her legal name but her friends might call her Mrs. Moonbeam.

4. If You Are Changing Your Name Back after You Get Married

Married, separated or divorced people who changed their names through common usage when they got married, can go back to their original name at any time. This type of name change is again done through common usage; you cannot apply to legally change your name back because you never legally changed it in the first place.

5. Changing Your Name in a Common Law/Adult Interdependent Relationship

If you want to, you can change your name to the name of your adult interdependent partner or you can hyphenate your partner's name with your own. You can make a name change like this simply through common usage or through the Adult Interdependent Relationships Act.

The Adult Interdependent Relationships Act defines adult interdependent partners as:

- a. Adults who have lived together in a relationship of interdependence for at least 3 years,
- b. Adults who have lived in a relationship of interdependence of some permanence if there is a child of the relationship,
- c. Or Adults who have entered into an adult interdependent partner agreement with each other.

Adult interdependent Relationships can include same-sex relationships.

6. Inheritance Rights

Changing your name does not in any way affect your inheritance rights. Having someone's last name does not give you more rights than anyone else, because other methods are used to determine entitlement to someone's estate.

NAMING YOUR CHILD

1. Unmarried Parents

When an unmarried woman has a baby, the baby is given the mother's last name unless:

- a. the father is willing to sign a paper saying that he is the father and both parents agree that the baby should have the father's last name. You can get the paper, called a "paternity declaration" from any registry service and hospitals.

OR

- b. both parents request that the baby have both of their last names. For example, if the baby's father is John Smith and the mother is Jane Doe, the baby could be Biff Smith-Doe or Biff Doe-Smith.

These rules apply even if the parents live in a common law relationship because they are legally unmarried.

2. Married Parents

Married people can choose to register their children under the father's last name, the mother's last name or a combination of the two. Both parents must agree on the last name for their children, even if the parents are separated. If the parents cannot agree, the child will be given a hyphenated name with the two names listed in alphabetical order, or, if the parents have the same name, the child will be given that name. A child can not have more than two names hyphenated together.

If the husband in a marriage is not the biological father of the child, he will still be presumed to be the father unless:

- a. the mother swears an affidavit saying that she was separated from her husband when she became pregnant and that the husband is not the father

OR

- b. the biological father swears an affidavit that he is the father and both he and the mother ask that the child be given the father's

last name, or a hyphenated name that includes the father's last name

CHANGING YOUR CHILD'S NAME

1. Possible Names for Your Child

A child's name can only be changed to:

- a. the mother or father's name before they were married
- b. the mother or father's name after they were married
- c. a hyphenated version of the parent's names

A child can not be given any other name, even if both parents agree to it. Children can request to change their names to anything that they want once they are 18.

2. Changing a Child's Name After Parents Divorce

After parents divorce, the child's name can be legally changed to a new name used by either of the parents under the Change of Name Act. Such a change of name requires the consent of both parents, the consent of the child if the child is over 12, and the consent of the step-parent if that is whose name is being used. If one of the biological parents refuses to consent, the other parent can make an application in court to change the child's name anyway, but then that parent will have to prove that it is in the best interests of the child to change the child's name.

It is also possible for a parent with custody to informally change the child's name through common usage without it being a legal name change. For example, the parent might ask the child's school to use the parent's last name rather than the child's legal last name. If the other parent objects to that name being used for the child, that parent can apply to court for an order prohibiting the child to be called anything but the child's legal name. In deciding whether to make the order, the court may consider such things as embarrassment to the child, the effect of a name change and the child's relationship with the non-custodial parent. Children who have had their names changed this way can get identification in the new name but they will need a statutory declaration (which is formal statement under oath) saying that the new name is the name that the child is known by in the community. Once children are 18

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years old, they can legally change their names to anything without needing consent of their parents.

3. Changing a Child's name After the Death of One Parent

A parent can change the name of his or her child to a new spouse's name if the other parent has died and it is with the consent of the new spouse. Such a name change can be done informally through common usage or legally under the Change of Name Act.

4. Children and Common-Law Relationships

Parents can apply to legally change their children's names or they can informally change their children's names through common usage. If the parent wishes to change the child's surname to the surname of the parent's new spouse or common-law spouse/adult interdependent partner who is also a parent of the child, the parent would need that persons consent, and the consent of the other biological parent. If the parent wanted to change the child's surname to the surname of the child's biological father, the parent may do so if the alleged father has been declared by the court to be the father or has acknowledged paternity. If the child is 12 years old or older, the child must consent to having his or her surname changed.

5. Adoption

When a child is adopted by two parents, the child is given that father's last name, unless the parents choose something else. The child gets a new birth certificate. The child must consent if he/she is 12 years old or older.

PUBLICATION OF NAME CHANGES

Name changes are published in the Alberta Gazette by the Director of Vital Statistics. The Court of Queen's Bench can dispense with the need for publication if it will unduly prejudice or embarrass the person. The Director may also dispense with the need for publication if the change is minor, or if the person is commonly known under the name applied for.

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REFERRAL NUMBERS

Division of Vital Statistics. [780] 427-7013
www.gov.ab.ca/ma

Lawyer Referral Services. 1-800-661-1095 (toll free)

Student Legal Services of Edmonton. [780] 492-2226
Civil/Family. [780] 492-8244