

## **INSTRUCTIONS FOR NAME CHANGE OF MINOR CHILDREN**

**Note:** HB 279 as passed in 2017 provides for a separate process when a name change is requested by an Individual alleging to be the victim of Family Violence. OCGA § 19-12-1 (c) (1) & (2). You will need to contact an attorney should you have any questions regarding this law.

### **FIRST, HERE IS WHAT A NAME CHANGE FOR MINOR CHILD DOES NOT DO:**

- The legal procedure of name change does not change the legal status of the child or the father in any way.
- If you are the father of a child born out of wedlock, and you want to become the legal father, you must use a different procedure called “**Legitimation.**” The Alcovy Circuit website has the forms for that procedure as well. You may change the child’s name in the Legitimation action, and you would not have to file a separate name change petition.
- If you are a mother or father who wants to have a court decide who is the child’s father, you must file a **Paternity** action.
- If you are the **natural parents** of a child born out of wedlock in Georgia, and you have now married each other and want to change the child’s birth certificate to show the father and change the child’s name, you do not have to file a court action. Instead, you may file a simple form with the Georgia Bureau of Vital Records. The form is called *Application for an Amended Certificate of Birth by Legitimation* (Form #3929) and is available from the Vital Records office.

### **SECOND, IN ORDER TO FILE A NAME CHANGE FOR ANY CHILD IN GEORGIA, YOU MUST HAVE THE CONSENT OF EACH OF THE PARENTS.**

The only exceptions to this rule are:

- If the parent is deceased, OR
- The parent has abandoned the child(ren), OR
- The parent has not contributed to the support of the children for a continuous period of at least 5 years immediately before you file the petition.

## **WHAT IS THE LAW ABOUT CHANGING NAMES IN GEORGIA?**

Court cases that are only about changing names are covered by Official Code of Georgia Sections 19-12-1 through 19-12-4 and 31-10-23(d). Other court cases can also include name changes as part of the case. These include legitimations, paternity actions, and divorces. Each of these actions has its own part of the Official Code of Georgia and is not included in this packet of forms.

## **GENERAL COMMENTS**

It is a good idea to talk to a lawyer before filing any court action. This name change is no exception to that rule. There are often more issues involved than you might realize if you fail to get legal advice. If you do talk to a lawyer before filing this action, it is a good idea to review the forms and instructions in this packet before you talk to the lawyer, so that you will be able to make the best use of your time with the lawyer.

**State law, OCGA § 15-19-51, prohibits court personnel (including staff attorneys or law clerks, calendar clerks, clerk's office staff, and sheriff's department staff) from giving legal advice or answering legal questions.**

## **LIST OF FORMS YOU SHOULD HAVE IN THIS PACKET:**

1. Petition to Change Name(s) of Minor Child(ren)
2. Verification of Name Change Petition
3. Consent to Change Name(s) of Minor Child(ren) and Acknowledgement of Service
4. Notice of Petition to Change Name(s) of Minor Child(ren)
5. General Civil Case Filing Information Form
6. Final Order Changing Name(s) of Minor Child(ren)
7. General Civil Case Final Disposition Information Form

## **LIST OF STEPS FOR NAME CHANGE OF MINOR CHILDREN:**

1. Fill out the *Petition*, *Verification*, *Consent and Acknowledgement*, *Notice*, and *Case Filing Information* forms. Sign the forms in front of a Notary Public. (Save the *Final Order* and *Case Disposition Information* forms for later, when you have your final hearing.)

2. Have one of the *Consent and Acknowledgment* forms completed and signed in front of a Notary Public by each of the other parent(s) and guardian (if any), unless one of the exceptions applies.
3. Make copies of all the forms.
4. File the forms at the Superior Court Clerk's office.
5. Arrange for publication in your local newspaper.
6. Arrange for service on all parents and guardian (if any), unless they have signed the *Consent and Acknowledgement* form.
7. Wait the required time, and prepare the forms for the final hearing.
8. Schedule and attend the court hearing.
9. File the *Final Order* and get a certified copy of it.
10. (Optional) Change birth certificate(s).

### **DETAILED, STEP-BY-STEP INSTRUCTIONS**

The rest of these instructions tell you how to fill out each form and complete each step of the process to complete your name change. **Please read these instructions and each form carefully.** Missing or misreading a word could cause you to make serious errors in your case, causing confusion and delays, and even causing the Court to deny the name changes you are requesting.

### **STEP 1(a): Completing the Petition to Change Names of Minor Children**

#### **Caption (Heading on Petition):**

Type or print the current names of the minor children on the blanks provided (to the left of the vertical line). Fill in your name on the blank for the Petitioner. If you are one of the parents, list the other parent as the Respondent. If you are not one of the parents, but are a guardian, fill in the name(s) of the children's living parent(s) as the Respondents. If the children do not have any living parents, then leave the Respondent's line blank. *Do not fill in the Civil Action Case Number. The clerk will assign a number to your case when you file your petition in the Clerk's office.*

### Paragraph 1 of Petition: Your Name and Residency

Type or print your name on the blank in this paragraph.

### Paragraph 2 of Petition: Your Relationship to the Children

Check the box next to the word that describes your relationship to the children. Only people who have a legal relationship (that is, parents and guardians) can change the name of a minor child.

### Paragraph 3 of Petition: Names and Birthdates of the Children

Fill in the current name, date of birth, and proposed new name for each child on the chart in this paragraph. **Spell the current name exactly** as it appears on the child's birth record (including any middle names). **Spell the new name exactly** as you want it to appear on the birth certificate.

### Paragraph 4 of Petition: Where the Children Live

If the children live with you in the county where you are filing the petition, check the first box.

If the children do not live with you, check the second box. Then, fill in the blanks with the names of the parent or guardian living with the children and the county where they live.

### Paragraph 5 of Petition: Reasons for Name Change

Explain your reasons for the name change in this section. The Court needs to know why the name change would be in the best interests of the children. Be clear and reasonably complete, but keep it short.

### Paragraph 6 of Petition: Mother's Name and Address

Fill in the name of the children's mother and her address. However, if the mother is living in a shelter for victims of family violence, do not list the address of the shelter. To do so would violate O.C.G.A. § 19-13-23. Instead, on the space for the address, list only the name of the shelter and the state where it is located.

Then check one of the boxes. If you are the mother, check the first box (because you will consent to the name change). Otherwise, check the box that best applies to the children's mother. **If none of the statements next to the boxes applies to the children's mother in this case, then you cannot do the name change.** This is because the law requires that both parents consent to the name

change unless they are deceased, have abandoned the children, or have not contributed to the children's support for at least the last 5 years in a row.

#### Paragraph 7 of Petition: Father's Name and Address

Fill in the name of the children's father and his address. However, if the father is living in a shelter for victims of family violence, do not list the address of the shelter. To do so would violate O.C.G.A. § 19-13-23. Instead, on the space for the address, list only the name of the shelter and the state where it is located.

Then check one of the boxes. If you are the father, check the first box (because you will consent to the name change). Otherwise, check the box that best applies to the children's father. **If none of the statements next to the boxes applies to the father in this case, then you cannot do the name change.**

This is because the law requires that both parents consent to the name change unless they are deceased, have abandoned the children, or have not contributed to the children's support for at least the past 5 years in a row.

#### Paragraph 8 of Petition: Guardian's Name and Address (If Any)

If the children do not have a legal guardian (other than their parents), check the first box.

If both of the parents are deceased or have abandoned the children, and so the children have a guardian, check the second box. Then, fill in the name and address of the children's guardian. However, if the guardian is living in a shelter for victims of family violence, do not list the address of the shelter. To do so would violate O.C.G.A. § 1913-23. Instead, on the space for the address, list only the name of the shelter and the state where it is located.

#### Final Paragraph of Petition: Request for Relief and for Service on Parents and Guardian

**(a) Request for name change.** This part applies in all cases, so there is no box to check on this one.

**Important Note about Service:** In all name change cases, if the parents are alive, they must be properly served with the *Petition*. If the children live with someone acting as guardian who is not their parent, the person acting as guardian must also be served. According to the statute, service can be done in four possible ways, which are explained in more detail in **Step 6** below. The easiest way to serve them is for them to sign the form called *Consent to Change Name(s) of Minor Child(ren) and Acknowledgement of Service*. If they are not going to sign the *Consent and Acknowledgement* form, you must check the boxes in (b), (c) and (d) of this final section of the *Petition*, showing how you plan to have each parent and guardian served.

**When you do not have to check any of the service boxes:** If both parents have signed the *Consent and Acknowledgement* form, then you do not need to check any of the boxes about the mother or father in (b), (c) or (d). If the children do not have a person acting as guardian (other than their parents), or if that person has signed a *Consent and Acknowledgement* form, then you do not need to check any of the boxes about the guardian in (b), (c), or (d).

**(b) Service by sheriff.** Check box (b) if you need to have the sheriff serve either parent or a person acting as guardian. This is the type of service required in most cases.

**(c) Out-of-State Service.** Check box (c) if you will serve a parent or guardian by certified mail. You can only use this method of service for people who live outside the state of Georgia.

**(d) Service by Publication.** Check box (d) if you want to serve a parent or guardian by publication. You can only use this method of service for people you cannot find, after making a diligent search. Service by publication requires additional paperwork, including an *Affidavit of Diligent Search* and other forms.

To finish filling out this Petition form, sign your name in the space provided on the last page, add the date on which you are signing it, write your address and a daytime telephone number where the Court staff can reach you if necessary. However, if you are living in a shelter for victims of family violence, **DO NOT LIST THE ADDRESS OF THE SHELTER**. To do so would violate O.C.G.A. § 19-13-23. Instead, on the space for the address, list only the name of the shelter and the state where it is located. Also, if the Respondent does not know your address and it should be kept confidential because of family violence, do not write that address here. Instead, you should write another address here, where you can be sure that you will receive any information that is mailed to you by the Court or the Respondent.

### **Step 1(b): Completing the Verification Form**

The Verification form must be filed with the *Petition*. Fill out the caption in the same way you filled it out on the *Petition*. Then, insert your name in the space after the words “My name is.”

Now, before you sign this Verification, remember that you will be swearing under oath that the information you have provided in the *Petition* is true. Therefore, you should reread the *Petition* one more time, from start to finish, to make sure that it is all true. **Do not sign it until you are in front of a notary public.** The notary must complete the rest of the Verification form after you sign it under oath.

### **Step 1(c): Completing the Consent and Acknowledgement Form for Yourself**

There are two copies of this form in your packet. One is for the mother; one is for the father. You will need to make a third blank copy if both parents are consenting and there is also a guardian who is consenting (who is not a parent).

On the *Consent to Change Name(s) of Minor Child(ren) and Acknowledgement of Service* form that you will sign, complete it as follows:

Caption (Heading) on Consent: Fill out the caption in the same way you did it on the *Petition*.

#### Paragraph 1 of Consent: Your Name, Address, and Your Relationship to the Children

Type or print your name and address on the blanks in the paragraph. (If you are staying in a family violence shelter, do not list your address. See notes above.) Check the box next to the word that describes your relationship to the children.

#### Paragraph 2 of Consent: Petitioner's Name, Names Birthdates of the Children

Type or print your name on the first blank in this paragraph (near the bottom of Page 1 of the form). Then, fill in the current name, date of birth, and proposed new name for each child on the chart in this paragraph, just as you did in Paragraph 3 of the *Petition*.

Signature on Consent: Do not sign it until you are in front of a notary public. When you sign, check the box under your signature that best describes your relationship to the children.

### **Step 1(d): Completing the Notice of Petition to Change Name(s) of Minor Child(ren)**

On the first blank in the main part of the form, fill in your name. On the appropriate blanks, fill in the date you are filing the *Petition*. On the lines on the left side, fill in the current names of the minor children. On the lines on the right side, fill in the proposed new names of the minor children. At the bottom, fill in the date you are signing the form, and sign your name on the blank provided. Print or type your name and address on the lines below your signature. Make sure your address is complete, so that the newspaper can send you the proof of publication.

### **Step 1(e): Completing the Non-Domestic General Civil Case Filing Information Form**

Check the box next to the word "Superior" in the upper left-hand corner of the form.

Fill in the name of the county in which you are filing the *Petition*. Do not fill in the Docket Number or the Date Filed. The clerk will do it for you when you file the case.

Fill in your name in the first line under “Plaintiff(s).” Fill in the number of Plaintiffs.

Check the box for “Pro Se.”

Leave the lines under “Defendant(s)” blank.

In the “Check Primary Type” box, check “Other General Civil Specify” and write “Name Change.”

### **Step 1(f): Signing in Front of a Notary Public**

After you fill out all of the forms, review them to make sure they are complete and accurate. Then take them to a notary public and sign them in front of the notary.

### **Step 2: Getting Consent and Acknowledgement forms signed by other interested parties (parents and guardians)**

Each of the parents has to sign one of the Consent and Acknowledgement forms, unless one of these reasons for an exception applies to them:

- The parent is deceased, OR
- The parent has abandoned the children, OR
- The parent has not contributed to the support of the children for a continuous period of at least 5 years immediately before you file the petition.

If both parents are deceased, or have abandoned or failed to support the children, then the person acting as guardian must sign the *Consent* form. If only one of the parents fits one of the exceptions, then that parent does not have to sign a *Consent* form, but the other parent must sign one.

On each of the *Consent to Change Name(s) of Minor Children and Acknowledgement of Service* form(s) that will be signed by others, complete them as follows:

Caption (Heading): Fill out the caption in the same way you filled it out on the *Petition*.

#### Paragraph 1 of Others’ Consent: Name, Address, and Relationship to the Children

The parent or guardian signing the form should fill in *their* name and address on the appropriate blanks and then check the box showing their relationship to the children.



## Paragraph 2 of Others' Consent: Petitioner's Name, Names & Birth dates of the Children

Type or print your name on the first blank in this paragraph (near the bottom of Page 1). Then, fill in the current name, date of birth, and proposed new name for each child on the chart in this paragraph, just as you did in Paragraph 3 of the Petition. (Be sure to spell the old names exactly as they appear on the current birth certificates, and the new names exactly as you want them to be on the new, amended birth record.)

Signature: You cannot sign this form. **The parent or guardian must sign it, but not until they are in front of a notary public.** They should check also the box that describes their relationship to the children.

### **Step 3: Copying Your Papers**

Check to make sure you have completed all the forms you need, and that they have all been signed by the proper people in front of a notary. Then, make one copy of each of the forms for each parent and guardian, including yourself. Sort the copies into sets for the Court and for each parent and guardian with one copy of every form in each set. Clip each set with a paper clip.

### **Step 4: Filing the Forms at the Clerk's Office**

After you have completed, signed (in front of a notary, where applicable), copied and sorted all your paperwork, you are ready to file your case.

### **Step 5: Arrange for Publication of the Notice**

Publication is required, even if all parents and guardians have consented and acknowledged service. While you are filing your case, give the clerk the Notice and the payment for the publication. The clerk will forward the Notice and payment to the newspaper.

You should receive a Publisher's Affidavit from the newspaper after the Notice has been published for four weeks. Keep it with your other court papers for this name change case. You will need it at your final hearing to show the judge that the Notice was published.

### **Step 6: Arrange for Service**

Service is the formal process of notifying the parents and guardian that the name change case has been filed. There are basically **four ways** for service to be completed in this type of case: (a) the parent or guardian signs an Acknowledgement of Service,

(b) service by the sheriff's department, (c) publication, and (d) certified mail (only if the parent or guardian lives out of state).

a. Acknowledgement of Service

This is the easiest and least expensive method, **but only if** the parent or guardian is cooperative and willing to sign an acknowledgement form in front of a notary public. You cannot sign the form for them, and you cannot sign as the notary witnessing their signature. In this packet, the Acknowledgement of Service is combined with the Consent to Change Names. See Step 2 above for the instructions about this form.

So long as every parent and guardian (if any) signs a Consent and Acknowledgement form, no other type of service is required in your case. However, if any parent or guardian does not sign this form, then that parent or guardian must be served by one of the methods explained below.

b. Service by the Sheriff

This is the usual way for service to be completed (if an acknowledgement is not signed). It is sometimes called "Personal Service," which means that the deputy sheriff hands the papers to the parent or guardian in person. Therefore, if a parent or guardian will not sign an acknowledgement, and you know (or can find out) an address where the person can be served, then you should make arrangements for the Sheriff's Department to serve the papers.

**If the parent or guardian can be served in the state of Georgia**, bring a money order for the service fee made out to the county sheriff's department in which the parent or guardian is to be served. Even if the parent or guardian does not live in the county in which you are filing your petition, the clerk's office will forward the sheriff's service form to the county in which you are requesting service.

c. Certified Mail Service

If the parent or guardian **lives outside the state of Georgia**, you may use certified mail service. To use this method, mail a copy of the Petition and the Notice to the person. Use certified mail with return receipt requested (the green card). Be sure to include your return address, so that the papers or the green card will be sent back to you by the post office.

#### d. Service by Publication

This is the method of last resort. If you can find the parent or guardian, you must use one of the other methods of service. Service by publication can **ONLY** be used if you do not know where the person lives or works, and you cannot find out that information. You must prove to the Court that you have tried to locate the parent or guardian and that you cannot find him or her.

To serve by publication, you must prepare and file two forms (both available on the Alcovy Circuit website):

- i. Affidavit of Diligent Search, and
- ii. Order of Publication, Return of Service, Order Perfecting Service

In the Affidavit of Diligent Search, you will explain to the Court about the steps you took to try to find the parent or guardian. You must make reasonable efforts to find the person before you fill out the Affidavit form.

After you file the forms, if the Court grants permission, the Judge will sign the Order of Publication. In Step 5, you already arranged for the Notice of Petition to Change Names to be published in the county's official legal newspaper.

Meanwhile, the Court Clerk is required to mail the Notice to the parent or guardian's last known address (which you have provided in the Affidavit of Diligent Search), and then to complete the Return of Service part of the 3-section form listed as (ii) above.

However, to be on the safe side, you should also mail a set of all the papers (the "service copy") to the person's last known address. Make sure you put enough postage on it, and make sure you list a return address, so the post office can return it to you if they are not able to deliver it.

After it has been published as required, you should receive a Publisher's Affidavit from the newspaper stating that publication is complete. You must bring this Publisher's Affidavit with you to your hearing to prove that service by publication has been completed. Usually, the judge will then sign the Order Perfecting Service (part of the 3-part form listed above) at the hearing, showing that the Court has reviewed the service and finds it was done properly.

You may later find out where the parent or guardian lives or works before the case is over. If this happens, then you should arrange for the Sheriff's Department to serve the person or for the person to acknowledge service.

## **Step 7: Wait the Required Time and Prepare Forms for Final Hearing**

If all the parents and guardian (if any) live in the state of Georgia, the required waiting period is **30 days from the date of service** on the last one served. If any of the parents or guardian lives outside the state of Georgia, the required waiting period is **60 days from the date of service**.

In addition, publication of the Notice in the local newspaper must have been completed. The publication normally runs for 4 weeks, so it will usually be completed at approximately the same time as the waiting period.

### **Complete the Final Order Changing Names of Minor Children:**

Fill in the caption in the same way you did it on the Petition. Fill in the Case Number, as the clerk wrote it down for you when you filed the case.

Then, fill in the current (old) name, date of birth and (proposed) new name for each child on the chart in the body of the Order. Leave the rest of the form blank. The Judge will fill out the rest at your hearing.

### **Complete the General Civil Case Final Disposition Information Form:**

Check the box next to the word "Superior" in the upper left-hand corner of the form.

Fill in the county name. Fill in the Case Number on the space for the Docket Number. Fill in your name as the Reporting Party; your title is "Petitioner."

Fill in your name on the line for the "Name of Plaintiff/Petition." Check the box for "Pro Se." Fill in the name of the Respondent on the space provided.

Under "Type of Disposition," check the box for Bench Trial.

Do not fill in the "Award" section or the "Judgment on Verdict" section.

Under "ADR," check the box for "No."

## **Step 8: Schedule and Attend the Court Hearing**

Contact the calendar clerk for the Judge assigned to your case. Make sure you have your court papers (including the Case Number) in front of you when you make the call

so you can answer any questions the calendar clerk may have about your case.  
Schedule your final hearing.

When you go to the court for your hearing, take your copy of all the court papers with you, including:

1. Petition to Change Names of Minor Children
2. Consent to Change Names of Minor Children & Acknowledgement of Service
3. Notice of Petition to Change Names of Minor Children
4. Publisher's Affidavit
5. Final Order Changing Names of Minor Children
6. General Civil Case Final Disposition Information Form