

CHAPTER 574
NAMES

Section

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" **§574-1 Married persons; civil union partners.** Upon marriage or civil union, each of the parties to a marriage or partners in a civil union shall declare the middle and last names each will use as a married person or civil union partner. The last name or names chosen may be any middle or last name legally used at any time, past or present, by either spouse or partner, or any combination of such names, which may, but need not, be separated by a hyphen. The middle name or names chosen may be any middle or last name legally used at any time, past or present, by either spouse or partner, or any combination of such names, which may, but need not, be separated by a hyphen. [L 1860, p 32, §1; RL 1925, §3119; RL 1935, §4663; RL 1945, §12384; RL 1955, §327-1; HRS §574-1; am L 1975, c 114, §1; am L 1991, c 121, §1; am L 1993, c 346, §1; am L 2012, c 267, §13]

Note

The 2012 amendment is retroactive to January 1, 2012. L 2012, c 267, §20.

Case Notes

Mentioned: 57 H. 82, 549 P.2d 739.

" **§574-2 Legitimate children.** The registrar of births shall register any child born in wedlock as having both a family name and a given name chosen by one of the child's parents, or, if the parents do not agree on the name or names, the name or names specified by a court of competent jurisdiction to be in the best interests of the child; provided that the name or names of the child, if already registered on the birth certificate, need not be changed until the court order specifies otherwise. The registrar shall register any child legitimated, as provided in section 338-21, as having both a family name and a given name chosen by the child's parents, or, if the parents do not agree on the name or names, the name or names specified by a court of competent jurisdiction to be in the best interests of the child. [L 1860, p 32, §2; RL 1925, §3120; RL 1935, §4664; RL 1945, §12385; RL 1955, §327-2; am L 1967, c 6, §2; HRS §574-2; am L 1975, c 66, §3; am L 1980, c 153, §1; am L 1989, c 75, §2; am L 1991, c 121, §2]

" **§574-3 Children born to parents not married to each other.** The registrar of births shall register any child born to parents not married to each other at the time of the child's birth and where either the natural parents have not married each other or where the parent and child relationship has not been established

pursuant to chapter 584, as having both a family name and given name chosen by the mother. [L 1860, p 32, §3; RL 1925, §3121; RL 1935, §4665; RL 1945, §12386; RL 1955, §327-3; am L 1967, c 6, §2; HRS §574-3; am L 1980, c 153, §2; am L 1989, c 75, §3; am L 1997, c 52, §6]

Cross References

Birth certificates, see §338-21.

" **§574-4 REPEALED.** L 1991, c 121, §4.

" **§574-5 Change of name: procedure.** (a) It shall be unlawful to change any name adopted or conferred under this chapter, except:

- (1) Upon an order of the lieutenant governor;
- (2) By a final order, decree, or judgment of the family court issued as follows:
 - (A) When in an adoption proceeding a change of name of the person to be adopted is requested and the court includes the change of name in the adoption decree;
 - (B) When in a divorce proceeding either party to the proceeding requests to:
 - (i) Resume the middle name or names and the last name used by the party prior to the marriage or civil union or a middle name or names and last name declared and used during any prior marriage or civil union and the court includes the change of names in the divorce decree; or
 - (ii) Change the name of a minor child of one or more of the parties if the court determines that the change of name is in the child's best interest; or
 - (C) When in a proceeding for a change of name of a legitimate or legitimated minor initiated by one parent, the family court, upon proof that the parent initiating the name change has made all reasonable efforts to locate and notify the other parent of the name change proceeding but has not been able to locate, notify, or elicit a response from the other parent, and after an appropriate hearing, orders a change of name determined to be in the best interests of the minor; provided that the family court may waive the notice requirement to the noninitiating, noncustodial parent where

the court finds that the waiver is necessary for the protection of the minor;

- (3) Upon marriage or civil union pursuant to section 574-1;
- (4) Upon legitimation pursuant to section 338-21; or
- (5) By an order or decree of any court of competent jurisdiction within any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States, changing the name of a person born in this State.

Notwithstanding any law to the contrary, no person who is a covered offender subject to the registration requirements of section 846E-2 may obtain a name change, other than as provided in paragraph (2), (3), (4), or (5), unless a court determines that it is in the best interest of justice to grant the petition and that doing so will not adversely affect the public safety.

(b) The order of change of name by the lieutenant governor shall be founded upon a notarized petition. The petition shall be executed by the person desirous of making the change of name. In the case of a minor, the petition shall be executed:

- (1) By the parents;
- (2) By the parent who has custody of the minor with the notarized consent of the noncustodial parent; or
- (3) By the guardian of the minor.

(c) The filing fee of \$50 shall accompany the petition when submitted and shall not be refundable.

(d) A notice of change of name signed by the lieutenant governor shall be published once in a newspaper of general circulation in the State as mentioned in the order for change of name, and the petitioner within sixty days of the signing of the notice of change of name shall deposit at the office of the lieutenant governor an affidavit executed by an officer of the newspaper publishing the notice showing that the notice has been published therein. The affidavit shall have attached to it a clipping showing the notice as published. Failure to deposit the affidavit of publication as required shall void that petition for a change of name by that petitioner.

(e) When the petition is accompanied by an affidavit executed by a prosecuting attorney of this State, the affidavit shall show that for the protection of the person desirous of making a change of name, the following actions shall not be necessary:

- (1) Publication in a newspaper of general circulation in the State; and
- (2) Recordation in the bureau of conveyances.

The petition, affidavit, and order shall be kept confidential. [L 1860, p 32, §6; am L 1872, c 30, §1; am L 1907, c 75, §1; RL 1925, §3122; RL 1935, §4666; am L 1935, c 93, §1; RL 1945, §12387; am L 1945, c 145, §1; am L 1953, c 237, §1; RL 1955, §327-5; am L Sp 1959 2d, c 1, §9; HRS §574-5; am L 1977, c 31, §1; am L 1980, c 153, §4; am L 1982, c 50, §1; am L 1983, c 251, §1; am L 1984, c 245, §1; am L 1985, c 190, §2; am L 1986, c 250, §1; am L 1991, c 121, §3; am L 1992, c 5, §1; am L 1995, c 152, §1; am L 1998, c 311, §9; am L 2004, c 81, §1 and c 161, §36; am L 2007, c 47, §1; am L 2012, c 267, §14; am L 2014, c 220, §1]

Cross References

Modification of fees, see §92-28.

Attorney General Opinions

There is no requirement for a hearing before granting a name change. Att. Gen. Op. 79-5.

Office of the lieutenant governor should continue to require consent of the legal father before granting change in surname of minor child. Att. Gen. Op. 79-8.

Change of name should not be granted if it appears that the word constituting a name is to be used as a title rather than as a name; hearing required to deny request. Att. Gen. Op. 81-1.

Consent of the minor's parents should be sought before a guardian of the minor petitions for a name change; legal guardian of an incapacitated person may petition for a name change. Att. Gen. Op. 90-1.

" **§574-6 Effect of change.** (a) The change of name provided for by order of the lieutenant governor shall be effective upon the date of publication of the notice of change of name.

(b) In all cases of change of name by order of the lieutenant governor, except as otherwise provided by law, the order shall be recorded in the bureau of conveyances within sixty days after the signing of the order.

(c) All changes of names made by decree of any governor, or by the president of the Republic of Hawaii, or by the president of the Provisional Government of Hawaii, or by any king or queen of the Hawaiian Islands, are ratified and confirmed.

(d) The lieutenant governor shall adopt rules pursuant to chapter 91 necessary for the purposes of this chapter. [L 1982, c 50, §2; am L 1984, c 245, §2; am L 1985, c 190, §1; am L 1986, c 250, §2]