FAMILY COURT OF THE STATE OF DELAWARE

MINOR NAME CHANGE

Do I need to file a Petition for Paternity Adjudication, Form 144, or a Petition for Minor Name Change, Form 492?

If you are seeking to change your child's name and the father has not yet been legally established, you should file a Petition for Paternity Adjudication, Form 144. Within the paternity adjudication case, you can request that the child's name be changed. If paternity has already been established, you may file the Petition for Minor Name Change, Form 492.

Paternity may have been established if the father's name is listed on the birth certificate, he has signed the Voluntary Acknowledgement of Paternity, or he has been found by a Court to be the Father.

How old is a minor?

A minor is a person who has not yet reached his or her eighteenth (18^{th}) birthday.

Is there a filing fee required to change the name of a minor?

Yes. A list of filing fees can be obtained at the Resource Center in each courthouse and on the Family Court Website by searching Fees & Payment Options at https://courts.delaware.gov/family.

What if I cannot afford the filing fee?

If you cannot afford the filing fee, you will need to file an Affidavit in Support of Application to Proceed In Forma Pauperis, Form 257P. If a Judicial Officer denies your

request, you must pay the filing fee. If you do not pay the filing fee, the case will be dismissed.

Who can file a Petition for Minor Name Change?

Unless both parents are deceased, the petition must be filed by a parent. If both parents are deceased, a legal guardian may file the petition.

If I am the parent of the minor child, does the other parent need to be notified that I am petitioning the Court to change the name of our child?

Yes. The other parent must be listed as the respondent on the petition. If the other parent is living, the Court will serve a copy of the petition on the respondent parent. If service proves unsuccessful, the petitioner will be required, at his or her expense, to complete newspaper publication in the last known county where the respondent lived. You will be notified by the Court if publication is required.

If one or both parents are deceased, does the Court require proof of death?

Yes. There is space on the petition to indicate the name(s) and date(s) of death for one or both of the parents. A copy of the death certificate must accompany the petition. If you are unable to get a death certificate, you may file a motion to waive the death certificate requirement. Use the Generic Motion, Form 191, to explain why you are unable to produce a copy of the death certificate. You should also explain in the motion what substitute proof of death you are able to provide and attach your proof. Other proof of death may include an obituary, a mass card or a memory card. The Motion will be considered by a Commissioner.

What should I do if the child's other parent agrees with the requested name change?

If at the time of filing, both parents agree with the requested name change, one parent can file the petition as the petitioner with the second parent listed as the respondent. The second parent can then fill out the Affidavit of Parental Consent to the Petition for Minor Name Change, Form 493, which is attached to the Petition.

If the respondent parent agrees with the requested name change after being served the petition, the respondent parent can file the Affidavit of Parental Consent to the Petition for Minor Name Change, Form 493. If a respondent parent files the affidavit of consent, he or she does not have to file an answer as well. While nothing would stop them from filing one, the affidavit contains language that the filer is entering his appearance.

Does the child seeking the name change have to sign the petition?

If the minor child has reached his or her fourteenth (14th) birthday, the child must sign the Affidavit of Child 14 Years of Age or Older included in the petition. Children under the age of fourteen (14) are not required to sign the petition.

Is the child required to come to Court?

If a hearing is scheduled, children ages fourteen (14) and older are required to attend the scheduled hearing and may be required to testify. Children ages six (6) or older must be present in Court the day of the hearing. They may be questioned by the Court to see if they understand the nature of the proceedings. Children under the age of six (6) are not required to be present in Court on the day of the hearing.

How will the Court decide whether to grant the minor name change?

There is a legal presumption in favor of a request to add a parent's or legal guardian's last name to the minor's existing last name either as an additional name or hyphenated with the minor's existing last name. The same presumption applies if a legal guardian who holds permanent guardianship requests to change the minor's entire last name.

To overcome the presumption, a respondent must establish by clear and convincing evidence that the totality of the following factors demonstrates that granting the petition would cause the minor more harm than benefit:

(1) The length of time that a last name has been used for or by the minor,

(2) The minor's reasonable preference for a last name,

(3) The effect of the change of the minor's last name on the preservation and development of the minor's relationship with each parent or legal guardian, and

(4) The identification of the minor as part of the family unit or, if applicable, multiple family units.

If the requested name change does not involve adding the parent's or legal guardian's last name, the Court will decide the petition based on the best interest of the child. The best interest will be determined by applying the following 10 factors:

(1) A parent's failure to financially support the child;

(2) A parent's failure to maintain contact with the child;

(3) The length of time that a surname has been used for or by the child;

(4) Misconduct by one of the child's parents;

(5) Whether the surname is different from the surname of the child's custodial parent;

(6) The child's reasonable preference for a surname;

(7) The effect of the change of the child's surname on the preservation and development of the child's relationship with each parent;

(8) The degree of community respect associated with the child's present surname and proposed surname;

(9) The difficulties, harassment, or embarrassment that the child may experience from bearing the present or proposed name; and

(10) The identification of the child as a part of the family unit.

Who is responsible for notifying Social Security?

If a name change is granted, it is the petitioner's responsibility to notify this agency to obtain a new Social Security card. The Court will provide the petitioners with three (3) certified copies of the name change order.

Where can I get additional certified copies?

Certified copies can be obtained in the Records Department at any Family Court location in the state of Delaware. Please bear in mind same day service may not always be feasible.

How can I file my petition and related paperwork?

Petitions and papers may be filed at or mailed to the Family Court in each county. Family Court also now accepts petitions and papers by email. To file your petition by email, you must send the petition and all required forms to: FC_MNC@delaware.gov Please see the below list for the forms that must be filed with your petition. Family Court will serve the other parties your petition.

You may also use FC_MNC@delaware.gov to file with the Court answers, motions, and any other required papers. Although you can file these documents with the Court by email, you must still serve copies of these documents on the other parties personally or by mail.

****Before filing by email, please review the Civil Filing by Email FAQ:**
https://courts.delaware.gov/family/faqs

Required Forms for Minor Name Changes

- **Petition for Minor Name Change** (Form 492)
- **Affidavit of Parental Consent** (Form 493)
- **Custody Separate Statement** (Form 346)
- **Information Sheet** (Form 240)
- **Answer to Minor Name Change** (Form 629)

For more information on Minor Name Changes, please see the Minor Name Change Instruction Packet. This packet is available in the Resource Centers located in each courthouse and online at https://courts.delaware.gov/family.

Family Court Contact Information

New Castle County	**Kent County**	**Sussex County**
500 NORTH KING STREET	445 SOUTH GOVERNORS AVENUE	100 EAST MARKET STREET
WILMINGTON, DE 19801	DOVER, DE 19901	GEORGETOWN, DE 19947
(302) 255-0300	(302) 672-1000	(302) 855-7400

For more information, visit the Family Court webpage or scan the QR code.