

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

H

3

HOUSE BILL 805
Committee Substitute Favorable 5/23/11
Third Edition Engrossed 5/24/11

Short Title: Additional Name Change Requirements.

(Public)

Sponsors:

Referred to:

April 7, 2011

1 A BILL TO BE ENTITLED
2 AN ACT AMENDING THE NAME CHANGE STATUTE TO INCLUDE A CRIMINAL
3 RECORD CHECK AND OTHER REQUIREMENTS BEFORE THE CLERK OF
4 SUPERIOR COURT MAY GRANT OR DENY A NAME CHANGE APPLICATION.

5 The General Assembly of North Carolina enacts:

6 **SECTION 1.** G.S. 101-5 reads as rewritten:

7 "**§ 101-5. Clerk Name change application requirements; grounds for clerk to order or**
8 **deny name change; certificate and record.**

9 (a) A person who desires to change his or her true name may apply to the clerk of
10 superior court of the county where the person resides and must submit all of the following
11 information to the clerk in support of the application for a name change:

12 (1) The applicant's true name, county of birth, date of birth, the full name of
13 parents as shown on birth certificate, and the name sought to be adopted.

14 (2) The certified results of an official state and national criminal history record
15 check.

16 (3) A sworn statement as to the following:

17 a. That the applicant is a bona fide resident of, and domiciled in, the
18 county where the change of name is sought.

19 b. Whether or not the applicant has outstanding tax or child support
20 obligations.

21 (b) The clerk shall instruct the applicant on the process for having fingerprints taken
22 and submitted for the criminal history record check, including providing information on law
23 enforcement agencies or acceptable service providers. The clerk may require the applicant to
24 provide any other information that the clerk determines is reasonably necessary for the fair and
25 complete review of the name change application.

26 (c) The clerk shall review all the information contained in the application and otherwise
27 available to the clerk to determine whether there is good and sufficient reason to grant or to
28 deny the name change.

29 (d) If the clerk ~~thinks~~ finds that good and sufficient ~~reason exists~~ reasons exist for the
30 change of name, and the applicant has met the requirements of subsection (a) of this section, it
31 shall be his is the clerk's duty to issue an order changing the name of the applicant from his that
32 person's true name to the name sought to be adopted. ~~Such~~ The order shall contain ~~the~~ all of the
33 following:

34 (1) The true name, the county of birth, the date of birth, the full name of parents
35 as shown on birth certificate, and the name sought to be adopted.



1 (2) The clerk's summary of the information reviewed in connection with the
2 application.
3 ~~He~~ ~~The clerk~~ shall issue to the applicant a certificate under ~~his~~ ~~the clerk's~~ hand and seal of
4 office, stating the change made in the applicant's name, and shall also record ~~said~~ ~~the~~
5 application and order on the docket of special proceedings in his court. ~~He~~

6 (e) The clerk shall forward the order granting the name change to to:

7 (1) The State Registrar of Vital Statistics on a form provided by ~~him~~ ~~the~~
8 Registrar. If the applicant was born in North Carolina, the State Registrar
9 shall note the change of name of the individual or individuals specified in
10 the order on the birth certificate of that individual or those individuals and
11 shall notify the register of deeds in the county of birth. If the applicant was
12 born in another state of the United States, the State Registrar shall forward
13 the notice of change of name to the registration office of the state of birth.

14 (2) The Division of Criminal Information at the State Bureau of Investigation,
15 which shall update its records to show the name change.

16 (f) If the clerk finds that good and sufficient reasons exist to deny the applicant's
17 request for a name change, it is the clerk's duty not to issue an order changing the name of the
18 applicant from that person's true name to the name sought to be adopted. The order denying the
19 name change shall state the reasons for the denial. If the applicant desires to appeal the clerk's
20 decision, the applicant must petition the chief resident superior court judge within 30 days of
21 the date of the order denying the name change to request a reconsideration of the application.
22 The reconsideration decision of the chief resident superior court judge is final and not subject
23 to appeal. An unsuccessful applicant on reconsideration is subject to a waiting period of 12
24 months from the date the adverse decision of the chief resident superior court judge before the
25 applicant may submit another name change application. A successful applicant on
26 reconsideration shall be granted the name change by the clerk in like manner as prescribed by
27 subsection (d) of this section.

28 (g) Upon information obtained by the clerk of fraud or material misrepresentation in the
29 application for a name change, the clerk on his or her own motion may set aside the order
30 granting the name change after notice to the applicant and opportunity to be heard. If the clerk
31 sets aside the name change order, the clerk shall notify the State Registrar of Vital Statistics
32 and the Division of Criminal Information."

33 **SECTION 2.** This act is effective when it becomes law.