

S T A T E O F N E W Y O R K

11262--A

I N A S S E M B L Y

May 25, 2010

Introduced by M. of A. KELLNER -- read once and referred to the Committee on Judiciary -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the civil rights law, in relation to the publication requirement after a legal name change

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Section 63 of the civil rights law, as amended by chapter
2 258 of the laws of 2006, is amended to read as follows:
3 S 63. Order. If the court to which the petition is presented is satis-
4 fied thereby, or by the affidavit and certificate presented therewith,
5 that the petition is true, and that there is no reasonable objection to
6 the change of name proposed, and if the petition be to change the name
7 of an infant, that the interests of the infant will be substantially
8 promoted by the change, the court shall make an order authorizing the
9 petitioner to assume the name proposed. The order shall further recite
10 the date and place of birth of the applicant and, if the applicant was
11 born in the state of New York, such order shall set forth the number of
12 his OR HER birth certificate or that no birth certificate is available.
13 The order shall be directed to be entered and the papers on which it was
14 granted to be filed [prior to the publication hereinafter directed] in
15 the clerk's office of the county in which the petitioner resides if he
16 OR SHE be an individual, or in the office of the clerk of the civil
17 court of the city of New York if the order be made by that court.
18 [Such] IF THE PETITIONER HAS BEEN CONVICTED OF A VIOLENT FELONY OFFENSE
19 AS DEFINED IN SECTION 70.02 OF THE PENAL LAW OR A FELONY DEFINED IN
20 ARTICLE ONE HUNDRED TWENTY-FIVE, SECTION 130.25, 130.30, 130.40, 130.45,
21 135.10, 135.25, 230.05, 230.06, SUBDIVISION TWO OF SECTION 230.30,
22 SECTION 230.32, 255.25, 255.26, 255.27, OR ARTICLE TWO HUNDRED
23 SIXTY-THREE OF SUCH LAW, SUCH order shall also direct the publication,
24 at least once, within sixty days after the making of the order, in a
25 designated newspaper in the county in which the order is directed to be
26 entered and if the petition is made by a person [subject to the
27 provisions of subdivision two of section sixty-two of this article,]

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets
[] is old law to be omitted.

LBD09743-03-0

1 CURRENTLY CONFINED AS AN INMATE IN ANY CORRECTIONAL FACILITY OR CURRENT-
2 LY UNDER THE SUPERVISION OF THE STATE DIVISION OF PAROLE OR A COUNTY
3 PROBATION DEPARTMENT AS A RESULT OF SUCH CONVICTION, in a designated
4 newspaper in any county wherein such person was convicted if different
5 from the county in which the order is otherwise directed to be entered,
6 of a notice in substantially the following form: Notice is hereby given
7 that an order entered by the court,..... county, on
8 the day of....., bearing Index Number....., a copy of
9 which may be examined at the office of the clerk, located at
10, in room number....., grants me the right to assume
11 the name of My present address
12 is.....; the date of my birth is;
13 the place of my birth is; my present name is
14

15 S 2. Section 64 of the civil rights law, as amended by chapter 258 of
16 the laws of 2006 and the closing paragraph as separately amended by
17 chapters 258, 320 and 481 of the laws of 2006, is amended to read as
18 follows:

19 S 64. Effect. If the order shall be fully complied with, and within
20 ninety days after the making of the order, an affidavit of the publica-
21 tion thereof shall be filed, IF REQUIRED BY SECTION SIXTY-THREE OF THIS
22 ARTICLE, in the office in which the order is entered, the petitioner
23 shall be known by the name which is thereby authorized to be assumed. If
24 the surname of a parent be changed as provided in this article, any
25 minor child of such parent at the time of such change may thereafter
26 assume such changed surname.

27 Upon compliance with the order and the filing of the affidavit of the
28 publication WHERE APPLICABLE, as provided in this section, the clerk of
29 the court in which the order has been entered shall certify that the
30 order has been complied with; and, if the petition states that the peti-
31 tioner [stands] HAS BEEN convicted of a violent felony offense as
32 defined in section 70.02 of the penal law or a felony defined in article
33 one hundred twenty-five [of such law or any of the following provisions
34 of such law sections], SECTIONS 130.25, 130.30, 130.40, 130.45, 135.10,
35 135.25, 230.05, 230.06, SUBDIVISION TWO OF SECTION 230.30, SECTION
36 230.32, 255.25, 255.26, 255.27[,] OR article two hundred sixty-three[,
37 135.10, 135.25, 230.05, 230.06, subdivision two of section 230.30 or
38 230.32] OF SUCH LAW, such clerk (1) shall deliver, by first class mail,
39 a copy of such certified order to the division of criminal justice
40 services at its office in the county of Albany and (2) upon the clerk of
41 the court reviewing the petitioner's application for name change and
42 subsequent in-court inquiry, may, in the clerk's discretion, deliver, by
43 first class mail, the petitioner's new name with such certified order to
44 the court of competent jurisdiction which imposed the orders of support.
45 Such certification shall appear on the original order and on any certi-
46 fied copy thereof and shall be entered in the clerk's minutes of the
47 proceeding.

48 S 3. Subdivision 2 of section 61 of the civil rights law, as amended
49 by chapter 320 of the laws of 2006, is amended to read as follows:

50 2. If the petitioner [stands] HAS BEEN convicted of a violent felony
51 offense as defined in section 70.02 of the penal law or a felony defined
52 in article one hundred twenty-five [of such law or any of the following
53 provisions of such law sections], SECTION 130.25, 130.30, 130.40,
54 130.45, 135.10, 135.25, 230.05, 230.06, SUBDIVISION TWO OF SECTION
55 230.30, SECTION 230.32, 255.25, 255.26, 255.27, OR article two hundred
56 sixty-three[, 135.10, 135.25, 230.05, 230.06, subdivision two of section

1 230.30 or 230.32,] OF SUCH LAW, and is currently confined as an inmate
2 in any correctional facility or currently under the supervision of the
3 state division of parole or a county probation department as a result of
4 such conviction, the petition shall for each such conviction specify
5 such felony conviction, the date of such conviction or convictions, and
6 the court in which such conviction or convictions were entered.

7 S 4. Subdivision 2 of section 62 of the civil rights law, as amended
8 by chapter 320 of the laws of 2006, is amended to read as follows:

9 2. If the petition be to change the name of a person currently
10 confined as an inmate in any correctional facility or currently under
11 the supervision of the state division of parole or a county probation
12 department as a result of a conviction for a violent felony offense as
13 defined in section 70.02 of the penal law or a felony defined in article
14 one hundred twenty-five [of such law or any of the following provisions
15 of such law sections], SECTION 130.25, 130.30, 130.40, 130.45, 135.10,
16 135.25, 230.05, 230.06, SUBDIVISION TWO OF SECTION 230.30, SECTION
17 230.32, 255.25, 255.26, 255.27, OR article two hundred sixty-three[,
18 135.10, 135.25, 230.05, 230.06, subdivision two of section 230.30 or
19 230.32] OF SUCH LAW, notice of the time and place when and where the
20 petition will be presented shall be served, in like manner as a notice
21 of a motion upon an attorney in an action, upon the district attorney of
22 every county in which such person has been convicted of such felony and
23 upon the court or courts in which the sentence for such felony was
24 entered. Unless a shorter period of time is ordered by the court, said
25 notice shall be served upon each such district attorney and court or
26 courts not less than sixty days prior to the date on which such petition
27 is noticed to be heard.

28 S 5. This act shall take effect on the ninetieth day after it shall
29 have become a law and shall apply to orders issued on and after such
30 effective date.