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:

Section 1. Section 63 of the civil rights law, as amended by chapter 258 of the laws of 2006, is amended to read as follows:

S 63. Order. If the court to which the petition is presented is satisfied thereby, or by the affidavit and certificate presented therewith, that the petition is true, and that there is no reasonable objection to the change of name proposed, and if the petition be to change the name of an infant, that the interests of the infant will be substantially promoted by the change, the court shall make an order authorizing the petitioner to assume the name proposed. The order shall further recite the date and place of birth of the applicant and, if the applicant was born in the state of New York, such order shall set forth the number of his OR HER birth certificate or that no birth certificate is available. The order shall be directed to be entered and the papers on which it was granted to be filed [prior to the publication hereinafter directed] in the clerk's office of the county in which the petitioner resides if he OR SHE be an individual, or in the office of the clerk of the civil court of the city of New York if the order be made by that court. [Such] IF THE PETITIONER HAS BEEN CONVICTED OF A VIOLENT FELONY OFFENSE AS DEFINED IN SECTION 70.02 OF THE PENAL LAW OR A FELONY DEFINED IN ARTICLE ONE HUNDRED TWENTY-FIVE, SECTION 130.25, 130.30, 130.40, 130.45, 135.10, 135.25, 230.05, 230.06, SUBDIVISION TWO OF SECTION 230.30, SECTION 230.32, 255.25, 255.26, 255.27, OR ARTICLE TWO HUNDRED SIXTY-THREE OF SUCH LAW, SUCH order shall also direct the publication, at least once, within sixty days after the making of the order, in a designated newspaper in the county in which the order is directed to be entered and if the petition is made by a person [subject to the 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.

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

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

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

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

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

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

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

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

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

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