

4784--A

Cal. No. 581

2009-2010 Regular Sessions

I N S E N A T E

April 27, 2009

Introduced by Sen. KRUEGER -- read twice and ordered printed, and when printed to be committed to the Committee on Codes -- recommitted to the Committee on Codes in accordance with Senate Rule 6, sec. 8 -- reported favorably from said committee, ordered to first and second report, ordered to a third reading, amended and ordered reprinted, retaining its place in the order of third reading

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,

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

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1 SECTION 230.32, 255.25, 255.26, 255.27, OR ARTICLE TWO HUNDRED
2 SIXTY-THREE OF SUCH LAW, SUCH order shall also direct the publication,
3 at least once, within sixty days after the making of the order, in a
4 designated newspaper in the county in which the order is directed to be
5 entered and if the petition is made by a person [subject to the
6 provisions of subdivision two of section sixty-two of this article,]
7 CURRENTLY CONFINED AS AN INMATE IN ANY CORRECTIONAL FACILITY OR CURRENT-
8 LY UNDER THE SUPERVISION OF THE STATE DIVISION OF PAROLE OR A COUNTY
9 PROBATION DEPARTMENT AS A RESULT OF SUCH CONVICTION, in a designated
10 newspaper in any county wherein such person was convicted if different
11 from the county in which the order is otherwise directed to be entered,
12 of a notice in substantially the following form: Notice is hereby given
13 that an order entered by the court, county, on
14 the day of, bearing Index Number, a copy of
15 which may be examined at the office of the clerk, located at
16, in room number, grants me the right to assume
17 the name of My present address
18 is; the date of my birth is;
19 the place of my birth is; my present name is
20

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

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

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

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

1 2. If the petitioner [stands] HAS BEEN convicted of a violent felony
2 offense as defined in section 70.02 of the penal law or a felony defined
3 in article one hundred twenty-five [of such law or any of the following
4 provisions of such law sections], SECTION 130.25, 130.30, 130.40,
5 130.45, 135.10, 135.25, 230.05, 230.06, SUBDIVISION TWO OF SECTION
6 230.30, SECTION 230.32, 255.25, 255.26, 255.27, OR article two hundred
7 sixty-three[, 135.10, 135.25, 230.05, 230.06, subdivision two of section
8 230.30 or 230.32,] OF SUCH LAW, and is currently confined as an inmate
9 in any correctional facility or currently under the supervision of the
10 state division of parole or a county probation department as a result of
11 such conviction, the petition shall for each such conviction specify
12 such felony conviction, the date of such conviction or convictions, and
13 the court in which such conviction or convictions were entered.

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

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

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