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2013-2014 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 9, 2013

Introduced by M. of A. KELLNER -- read once and referred to the Committee on Judiciary

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 satisfied
4 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

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

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1 designated newspaper in the county in which the order is directed to be
2 entered and if the petition is made by a person [subject to the
3 provisions of subdivision two of section sixty-two of this article,]
4 CURRENTLY CONFINED AS AN INMATE IN ANY CORRECTIONAL FACILITY OR CURRENT-
5 LY UNDER THE SUPERVISION OF THE DEPARTMENT OF CORRECTIONS AND COMMUNITY
6 SUPERVISION OR A COUNTY PROBATION DEPARTMENT AS A RESULT OF SUCH
7 CONVICTION, in a designated newspaper in any county wherein such person
8 was convicted if different from the county in which the order is other-
9 wise directed to be entered, of a notice in substantially the following
10 form:

11 Notice is hereby given that an order entered by the
12 court,..... county, on the day of....., bearing Index
13 Number....., a copy of which may be examined at the office of the
14 clerk, located at, in room number....., grants me
15 the right to assume the name of My present address
16 is.....; the date of my birth is;
17 the place of my birth is; my present name is
18

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

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

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

52 S 3. Subdivision 2 of section 61 of the civil rights law, as amended
53 by section 54 of subpart B of part C of chapter 62 of the laws of 2011,
54 is amended to read as follows:

55 2. If the petitioner [stands] HAS BEEN convicted of a violent felony
56 offense as defined in section 70.02 of the penal law or a felony defined

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

13 S 4. Subdivision 2 of section 62 of the civil rights law, as amended
14 by section 55 of subpart B of part C of chapter 62 of the laws of 2011,
15 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 department of corrections and community super-
19 vision or a county probation department as a result of a conviction for
20 a violent felony offense as defined in section 70.02 of the penal law or
21 a felony defined in article one hundred twenty-five [of such law or any
22 of the following provisions of such law sections] SECTION 130.25,
23 130.30, 130.40, 130.45, 135.10, 135.25, 230.05, 230.06, SUBDIVISION TWO
24 OF SECTION 230.30, SECTION 230.32, 255.25, 255.26, 255.27, OR article
25 two hundred sixty-three, [135.10, 135.25, 230.05, 230.06, subdivision
26 two of section 230.30 or 230.32,] OF SUCH LAW, notice of the time and
27 place when and where the petition will be presented shall be served, in
28 like manner as a notice of a motion upon an attorney in an action, upon
29 the district attorney of every county in which such person has been
30 convicted of such felony and upon the court or courts in which the
31 sentence for such felony was entered. Unless a shorter period of time is
32 ordered by the court, said notice shall be served upon each such
33 district attorney and court or courts not less than sixty days prior to
34 the date on which such petition 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.