

3261

2013-2014 Regular Sessions

I N   S E N A T E

January 31, 2013

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Introduced by Sen. KRUEGER -- read twice and ordered printed, and when printed to be committed to the Committee on Codes

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

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

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

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

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

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

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

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

53 2. If the petitioner [stands] HAS BEEN convicted of a violent felony  
54 offense as defined in section 70.02 of the penal law or a felony defined  
55 in article one hundred twenty-five [of such law or any of the following  
56 provisions of such law sections], SECTION 130.25, 130.30, 130.40,

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

11 S 4. Subdivision 2 of section 62 of the civil rights law, as amended  
12 by section 55 of subpart B of part C of chapter 62 of the laws of 2011,  
13 is amended to read as follows:

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

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