

**SUPREME COURT OF PENNSYLVANIA
CIVIL PROCEDURAL RULES COMMITTEE**

NOTICE OF PROPOSED RULEMAKING

Proposed Adoption of Pa.R.Civ.P. 1850

The Civil Procedural Rules Committee is considering proposing to the Supreme Court of Pennsylvania the adoption of Pa.R.Civ.P. 1850 for the reasons set forth in the accompanying publication report. Pursuant to Pa.R.J.A. 103(a)(1), the proposal is being published in the *Pennsylvania Bulletin* for comments, suggestions, or objections prior to submission to the Supreme Court.

Any report accompanying this proposal was prepared by the Committee to indicate the rationale for the proposed rulemaking. It will neither constitute a part of the rules nor be adopted by the Supreme Court.

Additions to the text of the proposal are bolded and underlined; deletions to the text are bolded and bracketed.

The Committee invites all interested persons to submit comments, suggestions, or objections in writing to:

**Karla M. Shultz, Deputy Chief Counsel
Civil Procedural Rules Committee
Supreme Court of Pennsylvania
Pennsylvania Judicial Center
PO Box 62635
Harrisburg, PA 17106-2635
FAX: 717-231-9526
civilrules@pacourts.us**

All communications in reference to the proposal should be received by **August 30, 2024**. E-mail is the preferred method for submitting comments, suggestions, or objections; any e-mailed submission need not be reproduced and resubmitted via mail. The Committee will acknowledge receipt of all submissions.

By the Civil Procedural Rules Committee,

Maureen Murphy McBride
Chair

(This is an entirely new rule.)

Rule 1850. Judicial Change of Name.

- (a) **Authorization.** This rule governs a change of name authorized pursuant to 54 Pa.C.S. §§ 701 *et seq.*
- (b) **Petition.** An individual seeking a change of name shall file a petition in the office of the prothonotary of the county in which the individual resides. If the petitioner is married, the petitioner's spouse may join the petition as a party.
- (c) **Content of Petition.** The petition shall set forth:
 - (1) the intention to change the petitioner's name;
 - (2) the reason for the name change;
 - (3) the current residence of the petitioner;
 - (4) any residence of the petitioner for the five years prior to the date of the petition; and
 - (5) whether the petitioner intends to file a motion to waive notice and seal the record pursuant to subdivision (f) because the notice and the petition, if made public, would jeopardize the safety of the petitioner or the petitioner's child or ward.
- (d) **Fingerprint Card.** A set of the petitioner's fingerprints shall be submitted with the petition. The court shall promptly forward a duplicate copy of the petition and a set of the petitioner's fingerprints to the Pennsylvania State Police for timely processing of the background check required by 54 Pa.C.S. § 702(b).
- (e) **Notice and Publication.** Except as provided by subdivision (f), upon filing of the petition, the court shall:
 - (1) set a date for a hearing on the petition to be held not less than one month nor more than three months after the petition is filed; and
 - (2) order that notice be given of the filing of the petition and of the date set for the hearing on the petition and that the notice be:

- (i) published in two newspapers of general circulation, one of which may be the official paper for the publication of legal notices, in the county where the petitioner resides or a county contiguous to that county; and
- (ii) given to any non-petitioning parent of a child whose name may be affected by the proceedings.

(f) **Motion to Waive Notice and Seal the Record.**

- (1) A petitioner proceeding under this subdivision shall file a motion to waive notice and seal the record at the same time as or after the filing of the petition.
- (2) The motion shall be verified and set forth the reasons the petitioner believes public knowledge of the petition would jeopardize the safety of the petitioner or the petitioner's child or ward.
- (3) The court may, but is not required to, schedule a hearing on the motion. The petitioner may request oral argument on the motion. The hearing or oral argument on the motion shall be closed to the public.
- (4) In determining the motion, the court shall consider:
 - (i) the petitioner's safety concerns and whether publication of the notice or public access to the petition would jeopardize the safety of the petitioner or the petitioner's child or ward; and
 - (ii) the totality of the evidence presented and shall not require evidence of past incidents or future incidents in which safety was or may be jeopardized.
- (5) If the court finds that publication of the notice or public access to the petition would jeopardize the safety of the petitioner or the petitioner's child or ward, the court shall enter an order to:
 - (i) waive the notice required by 54 Pa.C.S. § 701(a.1)(3)(ii);
 - (ii) set a date for a hearing, which shall be closed to the public, on the petition to be held not less than one month nor more than three months after the petition is filed;

- (iii) seal the record; and
 - (iv) direct the prothonotary to amend the caption on the docket using the initials of the petitioner's name only.
- (6) Until the court decides the motion, there shall be no public access to any case record of the petition, motion, or proceeding.
- (7) If the motion is denied, the court shall enter an order in accordance with subdivision (e)(2). The petitioner may at any time withdraw the petition without order of court. Upon such withdrawal, all filings shall remain sealed.
- (g) **Court Requirements.** For petitions in which the petitioner intends to file a motion pursuant to subdivision (f), each court shall:
 - (1) designate a judge to adjudicate those petitions;
 - (2) establish procedures for maintaining the confidentiality of the name of the petitioner and the contents of the petition, motion, and other documents submitted to the court in connection with the petition; and
 - (3) maintain the confidentiality of the identity of the petitioner and the contents of the petition, motion, and other documents. All court employees assigned to the case shall be instructed as to their confidentiality obligations regarding the proceedings.
- (h) **Hearing.** The petitioner shall present to the court:
 - (1) proof of publication of the notice under subdivision (e)(2) unless the notice has been waived; and
 - (2) an official search of the proper offices of the county where petitioner resides and of any other county where petitioner has resided within five years prior to filing the petition showing that there are no judgments, decrees of record, or other similar matters against the petitioner.
- (i) **Order.** The court may enter an order changing the name as petitioned if the court is satisfied after the hearing that there is no lawful objection to the granting of the petition.

Comment: This rule provides detailed procedures for how individuals, including, but not limited to, domestic violence victims, crime victims, and persons seeking to change their name related to their gender identity, may request to waive notice of the name change and to seal the filings and proceedings related to the petition because the disclosure could jeopardize the safety of that individual or that individual's child or ward.

The documents filed pursuant to subdivision (f) are not accessible to the public pursuant to Sections 9.0(G) and 10.0(A)(1) of the *Case Records Public Access Policy of the Unified Judicial System*. A detailed list of the documents subject to Sections 9.0(G) and 10.0(A)(1) can be found at <https://www.pacourts.us/public-records/public-records-policies>.

Subdivision (g)(1) is generally intended to require each judicial district to designate one judge who will specialize in processing name change petitions with a request to waive notice and publication under subdivision (c)(5) due to the safety concerns raised by the petitioner. Recognizing that the volume of petitions will vary depending on the judicial district, the subdivision is not intended to preclude the assignment of more than one judge if needed.

Subdivision (h)(2) may be satisfied by a certificate given by a corporation authorized by law to make such a search.

**SUPREME COURT OF PENNSYLVANIA
CIVIL PROCEDURAL RULES COMMITTEE**

PUBLICATION REPORT

Proposed Adoption of Pa.R.Civ.P. 1850

The Civil Procedural Rules Committee is considering recommending the adoption of Pennsylvania Rule of Civil Procedure 1850 relating to the procedure governing name change petitions.

The Committee received a request from the Pennsylvania Bar Association to codify in the Rules of Civil Procedure the name change procedure to address the safety, confidentiality, and consistency concerns that impact transgender persons during the name change process. The rulemaking request sought uniformity in procedure and, if a petitioner seeks to have publication of the notice of name change waived, to establish parameters for making the safety assessment based on the potential impact that publication of notice may have on a petitioner.

Currently, there is no Pennsylvania Rule of Civil Procedure governing name change petitions. Instead, 54 Pa.C.S. §§ 701 *et seq.* sets forth the procedure and requires the filing of a petition in the court of common pleas of the county in which the petitioner resides. The statute specifies certain content to be included in the petition. Further, it directs the court to hold a hearing within one month of the filing of the petition and to order the publication of the notice of filing of the name change petition in two newspapers of general circulation in the county where the petitioner resides. The court must also order the notice to be given to any non-petitioning parent of a child whose name may be affected by the proceedings. The statute permits waiver of the notice if the court finds that the notice would jeopardize the safety of the petitioner or the petitioner's child or ward. Upon such a determination, the court must also then direct the file to be sealed.

In developing this proposal, the Committee observed the rulemaking request would result in a rule providing an exception to the general name change procedure set forth in statute. The Committee believed that the better approach would be to develop a rule governing the procedure for all name change petitions and to include detailed waiver requirements as the exception. In doing so, the rule would provide context for all individuals seeking to change their name rather than having to consult both the statute and a rule. The Committee concluded that expanding the scope of the rule in this manner may also protect other vulnerable populations, such as domestic violence victims or crime victims, who may also benefit from the protections afforded by the rule.

As noted above, 54 Pa.C.S. § 701 sets forth specific procedural requirements for the filing of a name change petition. However, the Committee observed there are procedural gaps in the statute regarding waiver of publication of the notice and for sealing the record. With regard to waiver, the statute does not provide any standard to evaluate a petitioner's perceived safety risk. With regard to sealing the record, the statute provides no standard nor any procedures on how to request sealing. Accordingly, the Committee concluded the rule should fill these procedural gaps, while tracking the procedural language found in 54 Pa.C.S. § 701.

To address those procedural gaps, subdivision (f) of the proposed rule would require a petitioner seeking waiver of notice to file a combined motion to waive notice and to seal the record. The combined motion may be filed with or after the filing of the petition to change name. The motion must be verified and set forth the reasons why the petitioner believes publication will jeopardize the petitioner's safety, or the petitioner's child or ward. The trial court has the option to schedule a hearing on the motion. Additionally, the petitioner may request oral argument. The ability to request oral argument allows the petitioner to inform the judge about the circumstances of the name change. All hearings and oral argument on the motion would be closed to the public. If the motion is granted, the court must enter an order waiving notice and direct the sealing of the record. If the motion is denied, subdivision (f) requires the court to enter an order directing the publication of the notice unless the petitioner elects to withdraw the petition.

To encourage uniformity in the consideration of a petition seeking to waive notice and publication, the proposed rule would impose requirements on each judicial district. One judge in each judicial district would be assigned to adjudicate those petitions. However, recognizing that, in larger judicial districts, the potential volume of petitions may be too burdensome for a single judge, the Comment provides that an additional judge or judges may be assigned if necessary.

In addition, the proposed rule would require each court to establish procedures to maintain the confidentiality of the petition and other documents filed, any motion to waive notice and to seal the record, and the identity of the petitioner. The courts would also be required to instruct court employees in their duty of confidentiality regarding the proceedings.

* * *

Accordingly, the Committee invites all comments, objections, concerns, and suggestions regarding this proposed rulemaking.