

1990 BILL 7

Second Session, 22nd Legislature, 39 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 7

CHANGE OF NAME AMENDMENT ACT, 1990

MRS. B. LAING

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

Bill 7
Mrs. B. Laing

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CHANGE OF NAME AMENDMENT ACT, 1990

(Assented to , 1990)

HER MAJESTY, by and with the advice and consent of the
Legislative Assembly of Alberta, enacts as follows:

- 1 The Change of Name Act is amended by this Act.*

- 2 Section 4.1(1) is amended by striking out "11(4)" and substituting "11(5)".*

- 3 Section 6(3) is repealed and the following is substituted:*
 - (3) A widowed person who remarries may apply to change the surname of a child of the widowed person who is also the child of the deceased spouse to the surname of the present spouse but only with the consent of the present spouse, if living.

- 4 The following is added after section 7:*
 - 7.1(1)** A person whose marriage has been annulled and who has lawful custody of a child of the annulled marriage may, with the consent of the other parent of the child, if living, apply to change a given or the surname of the child.

Explanatory Notes

1 This Bill will amend chapter C-4 of the Revised Statutes of Alberta 1980.

2 Section 4.1(1) presently reads:

4.1(1) Subject to sections 11(4) and 12, the surname of a child may be changed only to a surname that

(a) is the surname or maiden surname of the mother,

(b) is the surname of the husband or father, or

(c) consists of the surname or maiden surname of the mother hyphenated or combined with the surname of the husband or father.

3 Section 6(3) presently reads:

(3) A widowed mother who remarries may apply to change the surname of a child of hers who is also the child of her deceased spouse to the surname of her husband but only with the consent of her husband, if living.

4 Children of annulled marriages.

- (2) A person whose marriage has been annulled and who
- (a) has lawful custody of a child of the annulled marriage, and
 - (b) remarries

may apply to change the surname of the child to the surname of the present spouse, but the consent of the present spouse, if living, is required in addition to the consent of the other parent required under subsection (1).

5 *Section 11 is repealed and the following is substituted:*

11(1) This section does not apply to a child of a marriage that has been annulled.

(2) A parent who has lawful custody of a child born out of wedlock may apply to change a given name of the child.

(3) Subject to this section, a parent who has lawful custody of a child born out of wedlock may apply to change the surname of the child to the surname or proposed surname of the parent who has lawful custody.

(4) If a parent who has lawful custody of a child born out of wedlock marries and the spouse is not a parent of the child, the parent may apply to change the surname of the child to the surname of the spouse only with the consent of the spouse, if living.

(5) If a parent who has lawful custody of a child born out of wedlock is not married to but is cohabiting with a person of the opposite sex as husband and wife, the parent may apply to change the surname of the child to the surname of the person with whom the parent is cohabiting only with the consent of that person.

(6) A mother who has lawful custody of a child born out of wedlock and who is not cohabiting with the putative father of the child may apply to change the surname of the child to the surname of the putative father of the child if

- (a) the putative father has been declared by a court to be the father of the child, or

- (b) the putative father has acknowledged during his lifetime that he was the father of the child.

5 Section 11 presently reads:

11(1) The mother of a child born out of wedlock may apply to change a given name of her child of whom she has lawful custody.

(2) Subject to this section, the mother of a child born out of wedlock may apply to change the surname of her child of whom she has lawful custody

(a) to her surname at the time of the application, or

(b) if she is also applying to change her own surname, to her proposed surname.

(3) The mother of a child born out of wedlock who marries may apply to change the surname of the child to the surname of her husband but only with the consent of her husband, if living.

(4) The mother of a child born out of wedlock who is not married to but is cohabiting with a man as wife and husband may apply to change the surname of the child to the surname of that man but only with the consent of that man.

(5) Subject to subsection (4) the mother of a child born out of wedlock may not apply to change the surname of her child to the surname of the putative father of the child unless

(a) he has been declared by a court to be the father of the child, or

(b) he has acknowledged during his lifetime that he was the father of the child.

6 *Section 14(3) is amended by adding "7.1," after "7,".*

7 *Section 17 is amended by adding the following after subsection (3):*

(4) An application under section 7.1 shall be accompanied by a copy of the order, judgment or document that declares the marriage to be a nullity and proof that the applicant has lawful custody of the child named in the application.

(5) An application under section 11 shall be accompanied by proof that the applicant has lawful custody of the child named in the application.

6 Section 14(3) presently reads:

(3) If on an application to change a given name or the surname of a child the consent of some other person is required under section 5, 6, 7, 11 or 12 and the applicant is unable to obtain the consent of the other person, the Court of Queen's Bench, having regard to the best interests of the child, may dispense with the consent of the other person to the change of name.

7 Section 17 presently reads:

17(1) Every application for a change of name under this Act shall be filed with the Director and shall be in the prescribed form.

(2) Every applicant shall file with his application

(a) when the application includes an application for change of surname, a clipping from The Alberta Gazette in which the notice has been published pursuant to section 16(1), containing the notice of the intended application or a copy of an order made under section 16(3),

(b) an affidavit of bona fides in the prescribed form or to the like effect,

(c) the consent in the prescribed form or to the like effect of every person whose consent is necessary under this Act and a copy of any order made under section 14,

(d) the certificate of birth of the applicant and the certificate of birth of every person whose name may be changed as a result of the application or, if that is not available, any other documentary proof of name or identity that is acceptable to the Director, and

(e) any further documentary evidence or information required by the Director.

(3) An application under section 7 shall be accompanied by any proof that is required of the dissolution of the marriage and that the applicant has lawful custody of the child named in the application.