

Sixty-fourth
Legislative Assembly
of North Dakota

ENGROSSED HOUSE BILL NO. 1305

Introduced by

Representatives K. Koppelman, Brabandt, Klemin, Louser, Olson, Paur, Schreiber Beck
Senator Armstrong

1 A BILL for an Act to amend and reenact section 32-28-02 of the North Dakota Century Code,
2 relating to requirements for a change of name.

3 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

4 **SECTION 1. AMENDMENT.** Section 32-28-02 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **32-28-02. Change of name of person - Petition - Criminal history record checks -**
7 **Exceptions.**

8 1. Any person desiring to change that person's name may file a petition in the district
9 court of the county in which the person is a resident, setting forth:

10 a. That the petitioner is a citizen or permanent resident alien of the United States.

11 b. That the petitioner has been a bona fide resident of the county for at least six
12 months before the filing of the petition.

13 ~~b.c.~~ The reason for which the change of the petitioner's name is sought.

14 ~~e.d.~~ The name requested.

15 2. When an individual files a petition for a name change, the court shall determine
16 whether the petitioner has a criminal history in this state or any other state. The court
17 may require the petitioner to submit to a statewide and nationwide criminal history
18 record check. The criminal history record check must be conducted in the manner
19 provided for in section 12-60-24. All costs associated with the criminal history record
20 check are the responsibility of the petitioner. This subsection does not apply to a
21 request for a name change as part of an application for a marriage license under
22 section 14-03-20, to a request for a name change in conjunction with the annulment of
23 a marriage under chapter 14-04 or the dissolution or separation of a marriage under
24 chapter 14-05, or to the change of a minor's name unless the court has reason to

1 believe the request is being made to defraud or mislead, is not being made in good
2 faith, will cause injury to an individual, or will compromise public safety. If the individual
3 petitioning for a name change has a felony conviction under a law of this state or a law
4 of another state or the federal government, the request is presumed to be made in bad
5 faith, to defraud or mislead, to cause injury to an individual, or to compromise public
6 safety. The name change may not be granted unless the individual requesting the
7 name change proves by clear and convincing evidence that the request is not based
8 upon an intent to defraud or mislead, is made in good faith, will not cause injury to an
9 individual, and will not compromise public safety.

10 3. The judge of the district court, upon being duly satisfied by affidavit or proof in open
11 court of the truth of the allegations set forth in the petition, that there exists proper and
12 reasonable cause for changing the name of the petitioner, and that thirty days'
13 previous notice of the intended application has been given in the official newspaper of
14 the county in which the petitioner resides, shall order a change of the name of the
15 petitioner. Proper and reasonable cause does not exist if the court determines that the
16 request for a name change is made to defraud or mislead, is not made in good faith,
17 will cause injury to an individual, or will compromise public safety. The court may
18 waive publication of the notice when the proposed change relates only to a first or
19 given name as distinguished from a surname or upon evidence satisfactory to the
20 court that the petitioner has been the victim of domestic violence as defined in section
21 14-07.1-01.

22 4. If the person whose name is to be changed is a minor, the court shall consider the
23 appointment of a guardian ad litem, and notice of the intended application must be
24 published in the official newspaper of the county in which the minor resides and, if
25 different, the official newspaper of the county in which each of the minor's parents
26 reside. If the minor has a noncustodial parent, a copy of the notice must be deposited
27 in a post office in this state, postage prepaid, not later than ten days after the
28 publication of the notice, and directed to the noncustodial parent's last reasonably
29 ascertained post-office address. An affidavit of mailing of the notice prepared in
30 accordance with the North Dakota Rules of Civil Procedure must be filed with the
31 court.

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- 1 5. If the court issues a name change order for a petitioner who has a criminal history in
- 2 this or any other state, the court, within ten days after the issuance of the change of
- 3 name order, shall report the name change to the bureau of criminal investigation.
- 4 6. The provisions of this section may not delay the granting of a marriage license under
- 5 section 14-03-20, which may be granted without the change of name.