



The Pennsylvania Interbranch Commission for Gender, Racial, and Ethnic Fairness

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September 19, 2024

Ms. Karla M. Schultz, Deputy Chief Counsel
Civil Procedural Rules Committee
Supreme Court of Pennsylvania
Pennsylvania Judicial Center
PO Box 62635
Harrisburg, PA 17106-2635

Re: Comments on the Civil Procedural Rules Committee's Proposed Adoption of Pa.R.Civ.P. 1850
(Judicial Change of Name)

Dear Ms. Schultz,

On behalf of the Pennsylvania Interbranch Commission for Gender, Racial, and Ethnic Fairness ("Interbranch Commission"), we are writing today in response to the request from the Supreme Court Civil Procedural Rules Committee for stakeholder input on proposed Pa.R.Civ.P. 1850, published to address "the safety, confidentiality, and consistency concerns that impact transgender persons during the name change process." Thank you for this opportunity to comment on the proposed rules, which evidence careful deliberation. We believe that the rules, as amended pursuant to our recommendations below, will reduce the costliness, complexity, and highly publicized nature of changing one's name in Pennsylvania.

Background

The Interbranch Commission was established by the three branches of Pennsylvania government to implement the findings and recommendations of the 2003 Final Report by the Pennsylvania Supreme Court Committee on Racial and Gender Bias in the Justice System;¹ investigate new initiatives that may not have been addressed by that Report; suggest ways to reduce bias in all three branches of government and the legal profession; and increase public confidence in Pennsylvania government. At its heart, the purpose of the Interbranch Commission is to promote equal application of the law for all Pennsylvanians. Pursuant to those efforts, we recently submitted a [letter](#) to the Pennsylvania House of Representatives in support of House Bills 610, 638, and 1817, three bills designed to make the name change process more accessible to everyone. It is in furtherance of that same goal that we submit these comments.

¹ See Final Report of the Pennsylvania Supreme Court Committee on Racial and Gender Bias in the Justice System, available at <https://pa-interbranchcommission.com/wp-content/uploads/2022/01/FinalReport.pdf>.

We have divided our comments into two parts: (1) provisions which we support; and (2) provisions for which we suggest amendments.

1. Support for Certain Provisions of Proposed Pa.R.Civ.P. 1850

As the Rules Committee notes in its Publication Report, there is currently no statewide rule governing name change petitions. Pennsylvania’s judicial districts are thus left to determine their own procedures for such petitions, subject to the requirements of 54 Pa. Cons. Stat. § 701 (1982). Because the governing statute itself contains procedural gaps concerning the sealing of petitioners’ records and waiving the publication requirement, name change procedures foreseeably vary from district to district, precluding consistent and equitable application of the law.

Pa.R.Civ.P. 1850 mitigates this concern, promoting much-needed procedural uniformity and better protecting individuals’ safety. For instance, proposed subdivision (f)(3) requires that individuals seeking to waive the publication requirement and seal the record must file a verified request setting forth the reasons why public knowledge of the petition would jeopardize the safety of the individual or the individual’s child or ward. Proposed subdivision (f)(4) then clarifies the burden of proof individuals must satisfy to successfully make such a request.

Subdivision (f)(4) also crucially sets forth parameters delimiting the evidence the court may review in considering the individual’s request. Specifically, the proposed subdivision prohibits judges from requiring petitioners to produce evidence of past or future incidents to demonstrate that their safety may be jeopardized by publishing notice of the name change petition. Whether in front of the judge or via averred statement, requiring individuals to recount the details of the discrimination, harassment, or violence they have faced avoidably runs the risk of retraumatizing those individuals.

This risk is tangible and concrete. According to the Pennsylvania Coalition Against Domestic Violence (“PCADV”), “one in three women, one in four men, and nearly half of LGBTQ+ individuals will experience domestic violence in their lifetime.”² A recent snapshot of LGBTQ+ individuals’ health needs in our Commonwealth captured equally troubling statistics: of the 1,749 transgender Pennsylvanians reached by the study, 71% have already experienced some form of discrimination in their lifetime.³ Survivors of domestic violence and transgender individuals are two populations that may foreseeably pursue a legal name change, whether to flee abusers and start a new life free from violence, or to possess a name that aligns with their gender identity. Pa.R.Civ.P. 1850 presents these and other individuals with that opportunity, while sensibly requiring courts across the Commonwealth to adduce the merits of the petitioner’s request to waive notice without recourse to specific, potentially retraumatizing incidents.

Pa.R.Civ.P. 1850 also supports procedural uniformity by centralizing the name change process, requiring each judicial district to assign one judge to the adjudication of such petitions. Absent this statewide requirement, the Interbranch Commission has learned that many jurisdictions currently conduct hearings on name change petitions via general motions court. Because judges frequently rotate assignments in

² Pennsylvania Coalition Against Domestic Violence, *Domestic Violence Statistics*, <https://www.pcadv.org/about-abuse/domestic-violence-statistics/> (last visited August 12, 2024).

³ Res. & Evaluation Group at Pub. Health Mgmt. Corp. and Bradbury-Sullivan LGBT Community Ctr., *2022 Pennsylvania LGBTQ Health Needs Assessment: Findings From A Comprehensive Assessment Of The Health And Wellness Needs Of Lesbian, Gay, Bisexual, Transgender, And Queer+ Pennsylvanians* 1, 21, 48 (Jan. 2023), https://assets.nationbuilder.com/bradburysullivancenter/pages/2872/attachments/original/1673023325/2022_PA_LGBTQ_HNA_Report_Final_approved.pdf?1673023325.

motions court, individuals' ability to change their name may turn on the judge reviewing their petition, thus complicating equal application of the law. Centralizing the process before a designated judge ameliorates this issue, improving procedural predictability and stability by permitting judges to acquire and exercise knowledge of the process over time in a way that benefits all petitioners.

Next, the proposed rule takes important steps toward strengthening the privacy protections afforded individuals requesting a legal name change. Proposed subdivision (f)(3) would preclude public access to the case record while the court reviews the individual's request to waive notice. In considering the individual's request, the court may elect to schedule a hearing thereon, and the individual may themselves request oral argument. In either instance, the proposed rule sensibly prohibits public access. Absent this precautionary measure, one's hearing or oral argument on the merits of their safety concerns would counterintuitively require the individual to make their case in an open setting, potentially before individuals who pose the very safety risks contemplated by the petitioner in his or her request. Finally, if the court finds that publication of the notice *would* jeopardize the individual's safety, the rule requires that the court set a date for a hearing on the petition that is closed to the public.

2. Suggested Amendments to Proposed Rule

While the Interbranch Commission supports the provisions referenced above, we suggest several amendments to the proposed rule. In light of the Rules Committee's stated focus on improving consistency and clarity in name change procedures, we recommend that the Committee insert language into subsection (f) defining the standard of "jeopardizing the individual's safety." The Interbranch Commission has learned that Reed Smith's Pro Bono Project in Allegheny County has worked with local court administration to ensure that the "safety" of the petitioner extends beyond one's physical safety to encompass considerations such as economic harms, harassment, and threats. However, not all courts across the Commonwealth have done the same.

It is imperative that courts contemplate one's safety in a thorough and comprehensive manner. Transgender and other petitioners open themselves up to potential discrimination, harassment, or threats to their physical or economic safety if required to broadcast their change of name to the public. This threat is as real in the days and weeks surrounding the name change hearing as it is months and years down the line. Employers, landlords, and similar figures who conduct background checks on individuals have easy access to this sensitive information once it has been published in online editions of local newspapers. Publication thus impacts more than individuals' immediate, physical safety; it also potentially affects their earning capacity and ability to secure housing. The proposed rule should reflect this reality. Helpfully, the name change statute does not conflict with or preclude such considerations and likely could not have anticipated them in the first place – it was adopted in 1982, a year before the Internet came into existence.⁴

Next, we recommend that subdivision (h)(2) of proposed Pa.R.Civ.P. 1850 be amended to provide greater clarity to both petitioners and the court. This subdivision sets forth the judgment search requirement, in which individuals must conduct and present proof of a judgment search in each of the counties in which they have resided for the previous five years.⁵ At present, while the name change statute does not prohibit name changes in cases where there are judgments or decrees of record against the petitioner, neither the statute nor the proposed rule addresses the steps to take when such a search does in fact yield a judgment. To address this statutory gap, Allegheny County amended its corresponding local rule, Rule 505: Change

⁴ Pa. Pub. L. No. 1309 (Dec. 16, 1982) (adopting the current name change statute).

⁵ 54 Pa. Cons. Stat. § 701(a.1)(4)(ii)(b) (2004).

of Name of a Natural Person, to require that notice of the name change be provided to the county in which the money judgment exists and to the creditor, so that they are aware of the individual's new name.⁶ To more effectively streamline the name change process, we thus suggest that the Rules Committee include in proposed Pa.R.Civ.P. 1850 language implementing the same.

Third, we recommend that the Rules Committee amend its proposal to include language accounting for situations in which a minor-petitioner believes that knowledge by the non-petitioning parent of the name change petition would jeopardize the minor's safety. As proposed, Pa.R.Civ.P. 1850 states only that the individual must set forth the reasons why "public" knowledge of the petition would jeopardize the safety of the individual or the individual's child or ward. However, the name change statute also permits waiver of the notice otherwise required if minors can demonstrate that *parental* knowledge would endanger them.⁷ To clarify the availability of waiver in such instances, we recommend that the Rules Committee amend proposed subdivision (f)(2) to read as follows: "The motion shall be verified and set forth the reasons the petitioner believes public knowledge of the petition, or in the case of a minor, knowledge by the non-petitioning parent, would jeopardize the safety of the petitioner and/or the petitioner's child(ren) or ward(s)."

The Interbranch Commission also suggests that the Rules Committee incorporate language permitting courts to waive the fingerprinting requirement for minors. In general, the governing statute requires individuals seeking a legal name change to travel to a local police barracks to provide law enforcement with a set of fingerprints through which they can conduct a background check.⁸ However, the statute also sets forth certain exceptions to this requirement, specifically for proceedings involving "name changes [implicating] minor children in adoption proceedings" or "a name change involving a minor . . . whose name is being changed pursuant to section 703 . . . or because of the change of name of the child's parent."⁹ It is well documented that the fingerprinting process takes several weeks and can present a challenge for individuals lacking the means to travel to the closest police barracks.¹⁰ Where a statewide civil procedural rule can permissibly remove such barriers without sacrificing procedural integrity, we recommend that it do so. Accordingly, we suggest that, consistent with existing statutory exceptions, the Rules Committee amend the first sentence of proposed subsection (d) so that it reads as follows: "A set of the petitioner's fingerprints shall be submitted with the petition, unless waived in the case of a minor."

Next, we urge the Rules Committee to adopt the language proffered by the Pennsylvania Bar Association ("PBA") as part of its proposed subdivision (f)(4)(ii). This language would require courts reviewing the individual's waiver request to consider "[e]vidence that the petitioner[s] is a member of a demographic or other group which is subject to increased levels of violence, threats of violence, discrimination, abuse, and/or harassment." The proposed language serves not as a dispositive determination but as an important, evidence-based piece of the court's consideration, appropriately recognizing that some populations are, as illustrated by the statistics *supra*, more frequently subjected to violence and discrimination based on their gender identity or status as a survivor of crime or abuse. The Rules Committee's Publication Report implicitly acknowledges this reality, citing the need "to address the safety . . . concerns that impact transgender persons during the name change process" and to "protect other vulnerable populations, such as domestic violence victims." The Rules Committee can accomplish this

⁶ Alle. Cnty. Pa. R. 505 (2023).

⁷ 54 Pa. Cons. Stat. § 701(a.1)(3)(iii) (1982).

⁸ 54 Pa. Cons. Stat. § 702(b)(1) (1982).

⁹ 54 Pa. Cons. Stat. § 702(b)(5) (1982).

¹⁰ Jennifer Anderson, *The Legal Name Change Process*, JURIS Magazine (Nov. 17, 2021), <https://sites.law.duq.edu/juris/2021/11/17/the-legal-name-change-process/>.

laudable aim by incorporating the PBA’s proposed subdivision (f)(4)(ii) into its proposal and redesignating the existing proposed subdivision as (f)(4)(iii).

We next suggest that the Rules Committee insert language into the Comment of proposed Pa.R.Civ.P. 1850 designed to provide useful, precedent-based guidance to courts weighing the interest in preventing name changes for fraudulent reasons against the interest in granting a name change to individuals pursuing a legitimate, new identity. We borrow language from the PBA’s proposed amendments in recommending that the Rules Committee insert the following language into the Comment: “The determination in subdivision (h)(2) and in subdivision (i) ‘centers on governmental concerns that persons do not alter their identity to avoid financial obligations’ but otherwise, ‘the focus of the statute and the procedures thereunder, indicate a liberal policy regarding the granting of name change requests.’ *In re Zachary Thomas Andrew Grimes*, 530 Pa. 388, 392 (Pa. 1992).”

This language provides important context to judges assigned via the rule to name change petitions in their districts, some of whom may not have presided over an appreciable number of such petitions prior to the assignment. Coupled with the suggested amendments above, the language also helps to place individuals seeking a name change under the rule on more equal footing with others. Presently, the process to change one’s name due to marriage, death of a spouse, or divorce involves the simple submission of paperwork and respectively costs \$50 to \$100, \$30, and \$50 in total.^{11,12} For individuals pursuing a name change for any *other* reason – including via 54 Pa. Cons. Stat. § 701 and the proposed rule – the process is more complex and costly, necessitating fingerprinting, publication, judgment searches, and other requirements that can cost upwards of \$600, exclusive of attorney fees.¹³ By including a Comment emphasizing the liberal policy toward judicial change of name requests, the Rules Committee makes obtaining a new name more accessible to *all* Pennsylvanians, regardless of the reason(s) for which they are pursuing it.

Finally, to encourage equitable application of the proposed rule, we recommend that the Rules Committee insert the following language as a new subdivision (c)(6):

Whether there is/are any minor child(ren) under the care of the petitioner and whether the petitioner wishes for the minor child(ren)’s surname(s) to likewise be changed, pursuant to 54 Pa. Cons. Stat. § 703(a).

Subdivision (c) sets forth the required contents a petitioner seeking a name change must include in their petition. Proposed subdivision (c)(6) clarifies for both the court and *pro se* litigants that a minor may be included in the petition as part of a surname change occurring in the family. The proposed language is consistent with § 703(a) of the name change statute, protecting familial recognition through continuity of

¹¹ See, e.g., 23 Pa.C.S. §§ 1301 *et seq.* (1990) (providing that persons seeking a name change pursuant to marriage must complete a marriage license application); 54 Pa.C.S. § 704(a) (2005) (providing that persons pursuing a name change following divorce must file written notice with the prothonotary); and 54 Pa.C.S. § 704.1 (2004) (providing that persons wishing to resume a prior surname following the death of their spouse must file written notice to that effect with the prothonotary, along with a copy of the decedent’s certificate of death) [hereinafter *Statutes Governing Name Change Forms*].

¹² These costs are estimates derived from available data. A marriage license application costs \$50 in [Luzerne County](#) and \$80 in [Allegheny County](#). The cost of filing a Notice of Intention to Resume Prior Surname costs \$22.50 in [Lancaster County](#) and [generally ranges from \\$19 to \\$42](#). Obtaining a copy of a decedent’s death certificate [from the PA Dept. of Health](#) costs \$20.

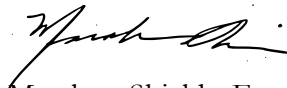
¹³ Eastern PA Trans Equity Project, *Changing Your Name in Pennsylvania*, <https://www.patransequity.org/legal-name-change/changing-your-name-in-pennsylvania/> (last visited Aug. 13, 2024).

shared surname. The proposed revision also promotes judicial economy, presenting an avenue through which both the name of the individual and his or her minor child(ren) can be sought in one petition.

3. Conclusion

By recommending proposed Pa.R.Civ.P. 1850 to the Supreme Court of Pennsylvania together with the amendments suggested above, the Rules Committee will improve all Pennsylvanians' access to legal names within which they can find dignity, safety, and the promise of a new start. Thank you for the opportunity to provide comments on the Committee's proposed changes to the Pennsylvania Rules of Civil Procedure. If you have any questions or concerns regarding our input, please do not hesitate to contact us by phone, at (717) 998-1297, or by email, at maraleen.shields@pacourts.us or brendan.bertig@pacourts.us. We look forward to continuing to work with you to draft and implement state rules that advance equal application of the law in our Commonwealth.

Sincerely,



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cc: Interbranch Commission Members
Interbranch Commission's LGBTQ+ Rights Committee Members
Interbranch Commission's Domestic Violence and Sexual Assault Victims/Survivors Committee Members