

NOTICE TO THE BAR

NAME CHANGES -- PROPOSED AMENDMENTS TO RULE 4:72 ("ACTIONS FOR CHANGE OF NAME") TO REMOVE NEWSPAPER PUBLICATION REQUIREMENTS - PUBLICATION FOR COMMENT

The Supreme Court invites written comments on a proposal to amend Rule 4:72 (“Actions for Change of Name”) so as to remove the publication requirements for name change actions of both adults and minors. The proposal is submitted on the joint recommendation of the Supreme Court Family Practice and Civil Practice Committees (“Committees”), building on an earlier recommendation by the Supreme Court Committee on Diversity, Inclusion, and Community Engagement. The proposed rule amendments are attached.

There is no statutory requirement for publication in name change actions. However, since 1952, the Court Rules governing name changes have required publication in a local newspaper of the notice of application (Rule 4:72-3) and the judgment for change of name (Rule 4:72-4). The newspaper publication requirement applies to name changes of adults and minors, although it is subject to waiver in individual cases. Applicants seeking to resume a prior name or adopt a new surname incident to divorce or dissolution of a civil union also are not subject to the newspaper publication requirement.

Rule 4:72 requires specific notice of the application to the Division of Criminal Justice, which conducts a background check. Notice of the application to change the name of a minor also must be served on a parent who is not a party to the action. The judgment of name change must be served on the Division of Treasury and, if the applicant has a criminal history or pending criminal charges, on the State Bureau of Identification. The Rule thus provides appropriate methods for notifying individuals and agencies that might object to the application, including if the name change is sought to evade criminal prosecution, avoid creditors, or for other wrongful purpose. With the advances in technology and the resulting reduced reliance on print newspapers as a primary source of public information, the publication requirement appears to serve little purpose at this time.

The following reasons support eliminating the newspaper publication requirement for all name change applications:

- (1) print newspapers do not provide a realistically effective method of informing the community, to the extent such notice was intended;

- (2) other provisions of Rule 4:72 serve to identify and permit objections if a name change is sought for a wrongful purpose, and to ensure that State agencies are informed of court-approved name changes;
- (3) newspaper publication is burdensome, especially to self-represented litigants; and
- (4) publication already may be waived in particular cases under Rule 4:72 and, pursuant to N.J.S.A. 2A:34-21, is not required for name changes incident to divorce or dissolution of a civil union.

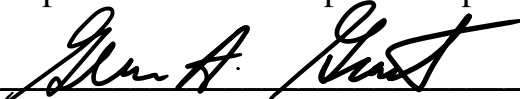
Elimination of the publication requirement would support consistency for all court users and provide for the safety and privacy interests of those obtaining name changes in affirmation of their gender identity. The Supreme Court Civil Practice Committee and Supreme Court Family Practice Committee thus recommend eliminating the publication requirements set forth in Rule 4:72-3 (“Notice of Application”) and 4:72-4 (“Hearing; Judgment; Publication; Filing”).

Please send any comments on the Committees’ proposed rule amendments in writing by October 14, 2020 to:

Glenn A. Grant, J.A.D.
Acting Administrative Director of the Courts
Comments on Proposed Amendments to Rule 4:72 – Removal of Publication Requirement
Hughes Justice Complex; P.O. Box 037
Trenton, New Jersey 08625-0037

Comments may also be submitted via e-mail to:
Comments.Mailbox@njcourts.gov.

The Supreme Court will not consider comments submitted anonymously. Thus, those submitting comments by mail should include their name and address (and those submitting comments by e-mail should include their name and e-mail address). Comments are subject to public disclosure upon receipt.



Hon. Glenn A. Grant, J.A.D.
Acting Administrative Director of the Courts

Dated: September 14, 2020

Proposed Rule Amendments

4:72-3. Notice of Application

The court by order shall fix a date for hearing not less than 30 days after the date of the order. **[Notice of application shall then be published in a newspaper of general circulation in the county of plaintiff's residence once, at least two weeks preceding the date of the hearing.]** Notice of application must be served by certified and regular mail, at least 20 days prior to the hearing to the Director of the Division of Criminal Justice to the attention of the Records and Identification Section. The court shall also require, in the case of a minor plaintiff, that notice be served by registered or certified mail, return receipt requested, upon a non-party parent at that parent's last known address.

Note: Source – R.R. 4:91-3. Amended July 7, 1971 to be effective September 13, 1971; amended July 13, 1994 to be effective September 1, 1994; amended July 5, 2000 to be effective September 5, 2000; amended August 1, 2016 to be effective September 1, 2016; amended _____ to be effective _____.

4:72-4. Hearing; Judgment; **[Publication;]** Filing

Except as otherwise provided in *R. 4:72-1(b)* and (c) regarding consent to a name change for a minor, on the date fixed for hearing the court, if satisfied from the filed papers, with or without oral testimony, that there is no reasonable objection to the assumption of another name by plaintiff, shall by its judgment authorize plaintiff to assume such other name from and after the time fixed therein, which shall be not less than 30 days from the entry thereof. At the hearing, plaintiff must present adequate proof of his or her current name. Within **[20 days after entry of judgment, a copy thereof, from which plaintiff's Social Security number shall be redacted, shall be published in a newspaper of general circulation in the county of plaintiff's residence, and within]** 45 days after entry of judgment, **[the unredacted judgment and affidavit of publication of the judgment shall be filed with the deputy clerk of the Superior Court in the county of venue and]** a certified copy of the **[unredacted]** judgment shall be filed with the appropriate office within the Department of Treasury. If plaintiff has been convicted of a crime or if criminal charges are pending, the clerk shall mail a copy of the judgment to the State Bureau of Identification.

Note: Source – *R.R. 4:91-4*; amended July 24, 1978 to be effective September 11, 1978; amended July 11, 1979 to be effective September 10, 1979; amended July 22, 1983 to be effective September 12, 1983; amended July 14, 1992 to be effective September 1, 1992; amended July 13, 1994 to be effective September 1, 1994; amended June 20, 2003 to be effective immediately; amended August 1, 2016 to be effective September 1, 2016; amended July 27, 2018 to be effective

September 1, 2018; caption and text amended to be effective

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