



Community Legal Information Association of Prince Edward Island, Inc.

Names

A person's name represents his or her identity, gender, and family ties. A name can sometimes be a major issue with confusing rules, or an unwanted attachment to the past.

Many people have questions about names, such as:

- How do we get our names?
- What are our choices when naming our child?
- How can we change a name?
- How can we change a child's name?
- Now that I am married, can I give my child my new spouse's last name?
- Can I change my name when I marry?
- If I change my name when I marry, how do I get my birth name back?

In Prince Edward Island, the law about first names (or given names), and last names (or surnames), is covered by two pieces of legislation - the *Vital Statistics Act* and the *Change of Name Act*. This pamphlet will explain some of the law in this area.

Naming A Child

The names we are given at birth are selected by others - by our parents or guardians or, if they cannot decide, by the laws of the province. The birth of a child and the child's chosen names must be registered within 30 days of the child's birth. This is usually done at the hospital when the child is born. A Statement of Birth is filled out giving information about the parents and the baby, including the baby's name. A birth certificate showing the name and birth details can then be requested from the Division of Vital Statistics, which is part of the P.E.I. Department of Health and Wellness.

The law about children's last names is contained in the PEI *Vital Statistics Act*. Parents can choose to give their child:

- either parents' last name
- a combination of the last names of the parents, in either order, or
- a completely different last name from either parent.

For example, if Jamie Smith and Taylor Jones have a son, John, they can register him as John Smith, John Jones, John Jones-Smith or John Smith-Jones or John Green.

- If only one parent's information is entered on the Statement of Birth, that parent chooses the child's names.
- If both parents' information is included on the Statement of Birth, they choose the child's names together.
- If the parents cannot agree about the name, the law says the child will be registered with a combination of both parents' last names, in alphabetical order. A combination last name can be made up of two names only.
- If the second parent's information is included on the Statement of Birth at a later time, the parents can change the child's last name at that time by filling out a form and paying the required fee at the Vital Statistics office.

When a child is adopted, new names chosen by the adopting parents are usually given to the child as part of the adoption order. A new birth certificate is issued in the new name by Vital Statistics and records are changed to show that the adopting parents are the parents of the child. The old birth records are then sealed and are not available to anyone, except by an order of the court.

Last Name of A Married Person

There is no law saying that a person must take his or her spouse's last name when marrying - this is a choice. When a person marries, he or she may keep his or her birth name, his or her current last name, use a combination name, or adopt his or her spouse's last name. For example, when Morgan Smith marries Pat Jones she or he can choose to be called Morgan Smith, Morgan Jones, or Morgan Smith Jones.

A person can change his or her mind and adopt his or her spouse's name or return to his or her birth name any time after his or her marriage. A person can use his or her birth surname for professional purposes and his or her married surname for all other purposes. In this case it may be a good idea to have identification documents in one name only and to sign all legal documents in that name.

A person who has taken his or her spouse's last name can continue to use that name after a separation and a divorce, and even after a remarriage to someone else.

Changing A Name

Under our traditional common law, which is not written down, people can call themselves by any name they want, as long as they are not doing it for illegal purposes, such as impersonating someone else or avoiding creditors. However, a person will not be able to get identification documents in that name without going through one of the methods of changing a name explained below.

There are two methods of changing an adult's name – by repute (or reputation) and by making an application to Vital Statistics for a legal change of name.

By Repute or Reputation:

When someone marries and takes their spouse's last name, he or she is changing her last name by repute. This is also one way each can go back to using a birth name or a former

name. It is not a way to acquire a name you have never had before. For instance, if John Smith wished to change his name to Henry Brown and get his identification documents changed, he would not be able to use this method.

To change a name by repute, you begin to use the new name and inform your friends, bank, employer and businesses you deal with about the change. You will also need to have all your identification cards changed, such as your passport, social insurance card, driver's license, and health services card. You will need to go to the government agency that issues each card. Each agency has its own rules about changing names on its documents and may charge a fee. You may have to support your request by producing a document with your chosen name on it – for example, your birth certificate will show your former name or birth name, or your marriage certificate will show your spouse's name, should you choose to use that.

Legal Change of Name

The second way of changing your name is known as a legal change of name and should be used if you are changing your name to one you have never used before. If you wish, you can use this method instead of “by repute” to go back to a previous name.

To change your name by this method you make an application to Vital Statistics and pay the required fee. If you were born on PEI, the change of name is recorded on your Statement of Birth. You can get a new birth certificate in your new name by applying to Vital Statistics. If you were born somewhere else, a notice of the change of name will be sent to the proper office or department where your birth was registered. You can make contact with that office to see if you can get new documents.

A notice of change of name will be filed by Vital Statistics with various offices, such as Family Court, the Registry of Deeds for your county, the province or country where you were born, the Registrar of Motor Vehicles, the Sheriff, municipal police, and the Director of Maintenance Enforcement. A notice will be published in the *Royal Gazette*, a government publication for legal notices. You may be able to use the change of name documents to get your name changed on other identification cards and at your bank, workplace and other businesses you deal with.

Changing A Child's Name

The law about changing children's names is in the provincial *Change of Name Act*. Parents or guardians of children can make an application to Vital Statistics to have a child's name changed. The application must include written consent of any other person who has legal custody of the child and any parent who is entitled to access to the child. If the other person refuses to consent or can't be contacted, the person asking for the name change can apply to court for an order saying consent is not required. This may be granted in some situations – for example, if the other parent is not involved with the child. If you are in this situation, you should speak with a lawyer.

Children 12 years of age or older must provide written consent for a name change. The child can sign a form at Vital Statistics saying that he or she wants his or her name changed. Once young people reach the age of 18 years, they can change their name

without their parents' permission and without asking the court (see "Changing A Name" above.)

If you wish to change the name of your child you should contact Vital Statistics (838-0880 or 1-877-320-1253).

Changing A Child's First Name

If a child acquires a different first (or given) name from the one that is registered on the Statement of Birth during his or her first ten years, the parents or guardians can apply to Vital Statistics to have the name changed. This is considered to be an amendment to an original name. A baptismal certificate or other documents obtained before the age of ten, showing the new name, must accompany the application. If the Director of Vital Statistics is satisfied that the given names were changed within the child's first ten years, a change is made to the Statement of Birth and a new birth certificate may be obtained. There is a fee for the amendment and for the birth certificate.

This information has been prepared by Community Legal Information Association of Prince Edward Island, Inc. It contains general information about family law and family court. It does not contain legal advice. To obtain legal advice, contact a lawyer. If you don't know a lawyer, call the Lawyer Referral Service at 892-0853 in the Charlottetown area or 1-800-240-9798 toll-free. The Lawyer Referral Service provides you with a half hour appointment with a lawyer for \$10 plus tax.

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For more information, you can telephone CLIA at 892-0853 or 1-800-240-9798, visit our website at www.cliapei.ca or email us at clia@cliapei.ca.

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