

# A Guide to Changing a Child's Name in South Australia

There may be many reasons why you would want to change a child's name after their birth. This can include their first name or last name.

In South Australia, changing a child's name is governed by the *Births, Deaths and Marriages Registration Act 1996 (SA)* (the 'Act') and is implemented by the Department of Consumer and Business Services ('CBS').

Following a child's birth, the child's parents ordinarily decide on a name for their child and complete the necessary paperwork given to them by the hospital. This name is then formally registered and a birth certificate for the child is issued.

## Changing a Child's Name After Registration

How you go about changing a child's name in South Australia after it is formally registered will depend on whether or not you have the consent of the other parent listed on the child's birth certificate.

If you are the only parent listed on the child's birth certificate, then you can apply directly to CBS and request a name change. The same applies if the other parent listed on the child's birth certificate has passed away.

# Changing a Child's Name With Both Parents' Consent

If you and the other parent listed on the child's birth certificate both consent to the change of the child's name, then you can jointly apply to CBS to register a new name for the child. It is a requirement under the Act that a child of any age must also consent to their name change, unless they are unable to understand the meaning and implications of a name change.

# Changing a Child's Name Without the Other Parent's Consent

If you do not have the consent of the other parent, then you will need to apply to the South Australian Civil and Administrative Tribunal ('SACAT'). SACAT will only approve the name change if it is satisfied that the name change is in the best interests of the child.

# Factors Considered by SACAT

In determining whether the proposed change of name is in the best interests of the child, SACAT will consider the following factors:

- The welfare of the child
- The short and long-term effects on the child of changing their name
- Any confusion of identity that may arise for the child if their name is, or is not, changed
- The effect that a change of name may have on the relationship between the child and the parent whose name the child previously had
- Any embarrassment that is likely to be experienced by the child if their name is different from that of the parent with guardianship and/or residence; and
- The effect on the child of frequent or random changes of name

The non-consenting parent will have the opportunity to tell SACAT why they do not consent to the child's change of name and why it is in the best interests of the child for the child's name to remain the same. The onus is on the parent seeking to change the child's name, to satisfy SACAT that the name should be changed. SACAT will take into account any existing parenting orders in relation to

parental responsibility and care arrangements for the child.

# Name Changes During Parenting Proceedings

If parenting proceedings are already on foot in the Federal Circuit and Family Court of Australia ('FCFCOA'), then you can seek an order in regard to changing a child's name. This can include an order specifying what name the child is known by, authorising one parent to make decisions about the child's name or an order dispensing with the consent of the other parent to any name change.

In deciding whether or not the FCFCOA will make such an order, the test is always the best interests of the child.

Once the FCFCOA makes such an order, this order is provided to CBS who then proceeds to register the name change.

If proceedings are already on foot in the FCFCOA, it may be more cost-effective and efficient to deal with the name change issue in that court. Evidence already being used in the parenting proceedings can also help determine whether the name change is in the child's best interests. This approach can avoid the need for separate proceedings in another tribunal.

# How We Can Help

Our Family Law team can assist and provide advice in relation to change of name applications in both SACAT and the FCFCOA. Feel free to contact our friendly and experienced solicitors on **8238 6666** or alternatively, send through your enquiry to **enquiry@andersons.com.au** to discuss your child's change of name application or any other children's matter.

The information in this article is general in nature and was accurate at the time of publication. Laws and circumstances can change. For advice specific to your situation, please seek professional legal advice.