



# Can I change my child's name without the other parent's consent in South Australia?

Ordinarily, when a child is born, the parents will choose the perfect name for the child together with the intention that the child will keep and use their chosen legal name for the rest of their life.

However, what happens if there is a need to change the child's name before they reach adulthood – before they are legally able to make that decision themselves? And what if both parents don't agree about changing the child's name?

## **Grounds to change a child's name**

In South Australia, a child's name is a matter of state law and is provided for under the [Births, Deaths and Marriages Registration Act 1996 \(SA\)](#) ('the Act'). If both parents listed on the birth certificate agree to change the child's name, they can make a joint application to the Registrar of Births, Deaths and Marriages to change the child's name.

Alternatively, one parent may apply to the Registrar of Births, Deaths and Marriages to change a child's name if:

1. The parent who is applying is the sole parent named on the child's birth certificate;
2. The other parent has died or cannot be found; or
3. The South Australian Civil and Administrative Tribunal ('SACAT') is satisfied that the change is in the best interests of the child, and SACAT approves the change.

In any event, in order to make an application to change a child's name, the child must have a South Australian birth certificate.

### **Best interests of the child**

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

1. The welfare of the child;
2. The short and long-term effects on the child of changing their name;
3. Any confusion of identity that may arise for the child if their name is, or is not, changed;
4. The effect that a change of name may have on the relationship between the child and the parent whose name the child previously had;
5. 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
6. The effect on the child of frequent or random changes of name.

It is also important to note that a child of any age must consent to a change of name unless the child is unable to understand the meaning and implications of the change of name. It is likely that the SACAT Tribunal Member will want to speak to the child directly and ensure they understand and consent to the proposed change of name.

SACAT should be informed of any family law Orders that apply to the child, especially if the applying parent has an Order from the Federal Circuit Court or Family Court of Australia for sole parental responsibility.

### **What if the other parent does not agree?**

The applicant parent has the onus to satisfy SACAT that the proposed change of name is in the best interests of the child on the basis of the above factors and any evidence they can present to the Tribunal. The non-consenting parent has the opportunity to tell SACAT that they don't agree with the proposed change and why they do not think it is in the child's best interests.

In circumstances such as serious domestic violence or the child having no relationship with the other parent for a long period of time, there is the opportunity for SACAT to proceed with an application without hearing from the other parent. However, it is rare for SACAT to do so, especially if the non-consenting parent is able to be located.

It is SACAT's primary role to consider the best interests of the child and that is the guiding factor in

making a decision to change a child's name or not. Just because one parent does not agree with the proposed change does not mean that SACAT will not make an order to change a child's name as long as they are satisfied that it is in the best interests of the child.

If SACAT make an order allowing a child's change of name, the child's new name must then be registered with Births, Deaths and Marriages in South Australia for it to be effective.

Our [Family Law team](#) have experience in making successful applications to SACAT to change a child's name. Feel free to [contact](#) our friendly and experienced solicitors to discuss your child's change of name application or any other children's matter.