



NAME CHANGES



The information provided in this document is meant for the sole use of Active Duty service members, retirees, their families, and those individuals eligible for legal assistance. The information is general in nature and meant only to provide a brief overview of various legal matters. Rights and responsibilities vary widely according to the particular set of circumstances in each case. Laws can vary across states, services, and civilian jurisdictions and laws are changed from time to time. Do not rely upon the general restatements of background information presented here without discussing your specific situation with a legal professional.

1. I RECENTLY MARRIED A WOMAN WHO HAS A MINOR CHILD FROM A PREVIOUS MARRIAGE/RELATIONSHIP. CAN WE GET THE CHILD'S LAST NAME TO MY OWN?

A. This can be done if your wife and the biological father of the child consent to the name change. If the other parent without physical custody does not consent, you'll need to file suit to terminate the biological father's parental rights. If the biological father's parental rights are terminated, the name change may proceed. If there has not yet been a judicial termination of the biological father's parental rights and the minor child has reached the age of sixteen, the name change may proceed:

1. With consent of the parent who has physical custody
2. The parent that has custody of the child has supported the child
3. The clerk of court is satisfied that the other parent without physical custody has abandoned the child

2. I RECENTLY MARRIED A WOMAN WITH A CHILD FROM A PREVIOUS MARRIAGE/RELATIONSHIP. SINCE I AM ADOPTING THE CHILD, WITH CONSENT OF MY WIFE AND THE BIOLOGICAL FATHER, CAN I CHANGE THE CHILD'S LAST NAME TO MY OWN?

A. Yes. Simply let the attorney who is handling the adoption paperwork know. There is an entry on the adoption petition which allows you to request that the child's name be changed.

3. BEFORE MY WIFE AND I GOT MARRIED, WE HAD A CHILD. SINCE WE WERE NOT MARRIED AT THE TIME OF THE CHILD'S BIRTH, THE CHILD HAS MY WIFE'S MAIDEN NAME. CAN WE HAVE THE LAST NAME CHANGED?

A. If both you and your wife consent, this can be done by the Clerk of Superior Court. Since both biological parents consent, it is not necessary to go to court in order to make a showing of abandonment or to terminate parental rights. All you need to do is file a petition to legitimate the child and request in the petition that the child's name be changed.



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4. I WANT TO CHANGE MY OWN NAME. HOW DO I GO ABOUT THIS?

A. You must have good reason for the name change and supply the names of two citizens of your county who can provide affidavits attesting to your good character. These people should both reside in the county (which will include paying taxes in the county). After the affidavits are signed (in front of a notary public), then a petition for name change is prepared; this states the current name you have, the one you propose to adopt and the reason(s) that you want to use the new name. After this, a notice must be posted at the courthouse of the county where you live and remain there for at least ten days. Then the petition is filed with the clerk, along with the affidavits. You will also have to provide the results of a State Bureau of Investigation criminal record check and a Federal Bureau of Investigation criminal record check, proof of your identification, birth certificate, proof of residency, an affidavit regarding your outstanding tax or child support obligations, and a filing fee.

5. MY WIFE AND I ARE GETTING DIVORCED. CAN LEGAL ASSISTANCE HELP WITH THIS?

A. Yes. It is fairly common for a woman to request the resumption of her maiden name when she gets divorced.

If she is the plaintiff, the party filing for divorce, then she can request it in her complaint. If you are filing and she is the defendant, she can respond to your complaint by filing an answer and counterclaim requesting the resumption of her maiden name. The judgment of divorce signed by the judge will state that she is allowed to resume the use of her maiden name.

HELPFUL WEBSITES:

North Carolina Legal Aid
<http://www.legalaidnc.org/>

Armed Forces Legal Assistance Website
<http://legalassistance.law.af.mil/>

North Carolina Name Changes
<http://web.co.wake.nc.us/courts/namechanges.html>