

# NAME CHANGES FOR MINORS IN South Carolina



## What are the legal requirements?

A parent may petition (file a lawsuit) to change a child's name. The parent must make the other parent a party to the lawsuit unless the other parent's parental rights have been terminated or the parent is deceased. The process requires a guardian ad litem be appointed, even if both parents agree to the name change. A hearing is always required in a child name change case, and the guardian ad litem will report the findings of his or her investigation at this hearing. The process does not require all the attachments required for adult name changes, such as fingerprint and criminal background checks. *S.C. Code Ann. § 15-49-10(B)*

## Where should I file the petition?

File the petition in the family court in the appropriate circuit (usually the circuit of residence). *S.C. Code Ann. § 15-49-10(B)* See the map of family court judges here: <https://www.sccourts.org/familyCourt/familyMap.cfm>.

## What is the process and what forms should I use?

South Carolina does not require any particular form for the application of a name change, but the petition must name the parent filing and the other parent in the action. The petition must also state the address of the minor, current and projected name of the minor, and reason for the name change. The applicant should file the petition with the family court clerk and must attach the filing fee, which varies by county, associated with a name change. This fee may vary among counties.

The petitioner will receive an appointment to appear before a family court judge. The petitioner may also be required to present witnesses or other documentation, depending upon the reasons for the name change. The petitioner will be notified of any additional documentation needed when notified of the court appointment. The petitioner will then appear before the family court judge. The other parent on the petition form must also be present, unless the court waives the requirement. The Guardian ad Litem will also appear at the court appointment and report the findings of his or her investigation into the child's name change.

South Carolina Equality has compiled a Name Change Request Packet for adults. Not all included forms will be required, but it may be possible to modify the forms in the guide for use in the name change of a minor. You can find this guide at:

<https://www.scequality.org/public/files/docs/SCNameChangePacket-small.pdf>

## National Center for Transgender Equality

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You may want to request more than one certified copy of the name change order, since certified copies may be required to update the minor's legal name with other agencies.

## Does the process require parental consent?

This process does require parental consent. If only one parent files the petition, then the other parent – or if there is not one, then the child – must be named as a party in the action, unless (1) the other parent's parental rights have been terminated, (2) the other parent is deceased, or (3) the family court waives the inclusion of the other parent in the suit. A guardian ad litem will be appointed even if both parents consent. The judge may hold a hearing in open court. *S.C. Code Ann. § 15-49-10(B)*

## What will the judge consider?

Judges have a lot of discretion in granting name changes. Some may have lots of questions and want to see lots of evidence regarding the name change of the child, others may grant a name change as long as there are no objections. The judge will consider the best interest of the child. When determining what is in the child's best interest, the judge will consider the following factors:

1. The length of time that the child has used the present name;
2. The effect of the change on the preservation and development of the child's relationship with each parent;
3. The identification of the child as part of a family unit;
4. The wishes of the parents;
5. The stated reason for the proposed change
6. The motive of the parents and the possibility that the use of a different name will cause insecurity or a lack of identity;
7. The difficulty, harassment, or embarrassment that the child may experience when the child bears a name different from the custodial parent;
8. The preference of the child if the child is of an age and maturity to express a meaningful preference; and
9. The degree of community respect associated with the present and proposed surname.

To demonstrate that the name change is in the best interests of the child, along with the name change petition you may want to submit evidence showing the judge why this is in the child's best interest. Examples of such evidence would be letters from teachers, family, or friends confirming their use of preferred name, letters from providers confirming the child's gender identity, etc.

*S.C. Code Ann. § 15-49-10(B)*

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