

# SB1191



## 101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

SB1191

Introduced 2/6/2019, by Sen. Cristina Castro

### SYNOPSIS AS INTRODUCED:

735 ILCS 5/21-103  
750 ILCS 5/413

from Ch. 110, par. 21-103  
from Ch. 40, par. 413

Amends the Code of Civil Procedure. Provides that a person who has received a judgment for dissolution of marriage or declaration of invalidity of marriage and wishes to change his or her name to resume the use of his or her former or maiden name is not required to provide notice by publication of the change of name. Makes conforming changes in the Illinois Marriage and Dissolution of Marriage Act and further provides that if a judgment contains a provision authorizing the person to resume the use of his or her former or maiden name, the person resuming the use of his or her former or maiden name is not required to file a petition for a change of name under the Code of Civil Procedure.

LRB101 05187 LNS 50199 b

A BILL FOR

1 AN ACT concerning civil law.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Code of Civil Procedure is amended by  
5 changing Section 21-103 as follows:

6 (735 ILCS 5/21-103) (from Ch. 110, par. 21-103)

7 Sec. 21-103. Notice by publication.

8 (a) Previous notice shall be given of the intended  
9 application by publishing a notice thereof in some newspaper  
10 published in the municipality in which the person resides if  
11 the municipality is in a county with a population under  
12 2,000,000, or if the person does not reside in a municipality  
13 in a county with a population under 2,000,000, or if no  
14 newspaper is published in the municipality or if the person  
15 resides in a county with a population of 2,000,000 or more,  
16 then in some newspaper published in the county where the person  
17 resides, or if no newspaper is published in that county, then  
18 in some convenient newspaper published in this State. The  
19 notice shall be inserted for 3 consecutive weeks after filing,  
20 the first insertion to be at least 6 weeks before the return  
21 day upon which the petition is to be heard, and shall be signed  
22 by the petitioner or, in case of a minor, the minor's parent or  
23 guardian, and shall set forth the return day of court on which

1 the petition is to be heard and the name sought to be assumed.

2 (b) The publication requirement of subsection (a) shall not  
3 be required in any application for a change of name involving a  
4 minor if, before making judgment under this Article, reasonable  
5 notice and opportunity to be heard is given to any parent whose  
6 parental rights have not been previously terminated and to any  
7 person who has physical custody of the child. If any of these  
8 persons are outside this State, notice and opportunity to be  
9 heard shall be given under Section 21-104.

10 (b-3) The publication requirement of subsection (a) shall  
11 not be required in any application for a change of name  
12 involving a person who has received a judgment for dissolution  
13 of marriage or declaration of invalidity of marriage and wishes  
14 to change his or her name to resume the use of his or her former  
15 or maiden name.

16 (b-5) Upon motion, the court may issue an order directing  
17 that the notice and publication requirement be waived for a  
18 change of name involving a person who files with the court a  
19 written declaration that the person believes that publishing  
20 notice of the name change would put the person at risk of  
21 physical harm or discrimination. The person must provide  
22 evidence to support the claim that publishing notice of the  
23 name change would put the person at risk of physical harm or  
24 discrimination.

25 (c) The Director of State Police or his or her designee may  
26 apply to the circuit court for an order directing that the

1 notice and publication requirements of this Section be waived  
2 if the Director or his or her designee certifies that the name  
3 change being sought is intended to protect a witness during and  
4 following a criminal investigation or proceeding.

5 (c-1) The court may enter a written order waiving the  
6 publication requirement of subsection (a) if:

7 (i) the petitioner is 18 years of age or older; and

8 (ii) concurrent with the petition, the petitioner  
9 files with the court a statement, verified under oath as  
10 provided under Section 1-109 of this Code, attesting that  
11 the petitioner is or has been a person protected under the  
12 Illinois Domestic Violence Act of 1986, the Stalking No  
13 Contact Order Act, the Civil No Contact Order Act, Article  
14 112A of the Code of Criminal Procedure of 1963, a condition  
15 of bail under subsections (b) through (d) of Section 110-10  
16 of the Code of Criminal Procedure of 1963, or a similar  
17 provision of a law in another state or jurisdiction.

18 The petitioner may attach to the statement any supporting  
19 documents, including relevant court orders.

20 (c-2) If the petitioner files a statement attesting that  
21 disclosure of the petitioner's address would put the petitioner  
22 or any member of the petitioner's family or household at risk  
23 or reveal the confidential address of a shelter for domestic  
24 violence victims, that address may be omitted from all  
25 documents filed with the court, and the petitioner may  
26 designate an alternative address for service.

1 (c-3) Court administrators may allow domestic abuse  
2 advocates, rape crisis advocates, and victim advocates to  
3 assist petitioners in the preparation of name changes under  
4 subsection (c-1).

5 (c-4) If the publication requirements of subsection (a)  
6 have been waived, the circuit court shall enter an order  
7 impounding the case.

8 (d) The maximum rate charged for publication of a notice  
9 under this Section may not exceed the lowest classified rate  
10 paid by commercial users for comparable space in the newspaper  
11 in which the notice appears and shall include all cash  
12 discounts, multiple insertion discounts, and similar benefits  
13 extended to the newspaper's regular customers.

14 (Source: P.A. 100-520, eff. 1-1-18 (see Section 5 of P.A.  
15 100-565 for the effective date of P.A. 100-520); 100-788, eff.  
16 1-1-19; 100-966, eff. 1-1-19; revised 10-4-18.)

17 Section 10. The Illinois Marriage and Dissolution of  
18 Marriage Act is amended by changing Section 413 as follows:

19 (750 ILCS 5/413) (from Ch. 40, par. 413)

20 Sec. 413. Judgment.

21 (a) A judgment of dissolution of marriage or of legal  
22 separation or of declaration of invalidity of marriage shall be  
23 entered within 60 days of the closing of proofs; however, if  
24 the court enters an order specifying good cause as to why the

1 court needs an additional 30 days, the judgment shall be  
2 entered within 90 days of the closing of proofs, including any  
3 hearing under subsection (j) of Section 503 of this Act and  
4 submission of closing arguments. A judgment of dissolution of  
5 marriage or of legal separation or of declaration of invalidity  
6 of marriage is final when entered, subject to the right of  
7 appeal. An appeal from the judgment of dissolution of marriage  
8 that does not challenge the finding as to grounds does not  
9 delay the finality of that provision of the judgment which  
10 dissolves the marriage, beyond the time for appealing from that  
11 provision, and either of the parties may remarry pending  
12 appeal. An order requiring maintenance or support of a spouse  
13 or a minor child or children entered under this Act or any  
14 other law of this State shall not be suspended or the  
15 enforcement thereof stayed pending the filing and resolution of  
16 post-judgment motions or an appeal.

17 (b) The clerk of the court shall give notice of the entry  
18 of a judgment of dissolution of marriage or legal separation or  
19 a declaration of invalidity of marriage:

20 (1) if the marriage is registered in this State, to the  
21 county clerk of the county where the marriage is  
22 registered, who shall enter the fact of dissolution of  
23 marriage or legal separation or declaration of invalidity  
24 of marriage in the marriage registry; and within 45 days  
25 after the close of the month in which the judgment is  
26 entered, the clerk shall forward the certificate to the

1 Department of Public Health on a form furnished by the  
2 Department; or

3 (2) if the marriage is registered in another  
4 jurisdiction, to the appropriate official of that  
5 jurisdiction, with the request that he enter the fact of  
6 dissolution of marriage or legal separation or declaration  
7 of invalidity of marriage in the appropriate record.

8 (c) Unless the person whose marriage is dissolved or  
9 declared invalid requests otherwise, the judgment under this  
10 Section shall contain a provision authorizing the person to  
11 resume the use of his or her former or maiden name, should he  
12 or she choose to do so, at any time he or she chooses to do so.  
13 If a judgment contains such a provision, the person resuming  
14 the use of his or her former or maiden name is not required to  
15 file a petition for a change of name under Article XXI of the  
16 Code of Civil Procedure.

17 If a person whose marriage is dissolved or declared invalid  
18 chooses to resume the use of his or her former or maiden name,  
19 he or she is not required to provide notice by publication  
20 pursuant to subsection (a) of Section 21-103 of the Code of  
21 Civil Procedure.

22 (d) A judgment of dissolution of marriage or legal  
23 separation, if made, shall be awarded to both of the parties,  
24 and shall provide that it affects the status previously  
25 existing between the parties in the manner adjudged.

26 (Source: P.A. 99-90, eff. 1-1-16; 100-520, eff. 1-1-18 (see

1 Section 5 of P.A. 100-565 for the effective date of P.A.  
2 100-520).)