

NAME CHANGES FOR MINORS IN South Dakota



What are the legal requirements?

A minor may petition for a name change in the same manner as a legal adult, but a guardian or conservator must be appointed to conduct the action. *S.D. Codified Laws § 26-1-3*

The name change process requires a petition to the court and publication of notice of the hearing and petition details in a legal newspaper once a week for four weeks. In addition to these name change requirements, for the name change of a minor, the petitioner must give notice to any parent who is not a party to the petition and whose parental rights have not been terminated. *S.D. Codified Laws § 21-37-4*

The petition is excused from the notice, publication, and public hearing requirements if all parents with parental rights consent and the minor if 12 years or older consents. *S.D. Codified Law § 21-37-5.1*.

Where should I file the petition?

File the petition in the Circuit Court in the county where the minor child has resided for at least six months. *S.D. Codified Laws §§ 21-37-1, -2*. See the list of circuit courts here: https://ujs.sd.gov/Circuit_Court/.

What is the process and what forms should I use?

A minor seeking a name change must petition the circuit court with the same information required for adults. The petition must be filed in the office of the clerk of courts of the county of petitioner's residence. The petition must state that the petitioner has been a resident of the county for at least six months prior to filing the petition, the reason for the name change, and the name requested. *S.D. Codified Laws § 21-37-3*

The South Dakota Unified Judicial System has a useful site dedicated to the name change of a child, with a checklist and links to applicable forms, here: <http://ujs.sd.gov/Forms/minornamechange.aspx>

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.

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Will publication and a public hearing be required?

The petition is excused from the notice, publication, and public hearing requirements if all of the following are met:

1. It appears from the pleadings that the minor child has been a resident of the county in which the petition is filed for at least six months;
2. The minor's parents whose parental rights have not been terminated, and any other person having legal rights to custody or guardianship of the minor, give written consent to the name change;
3. The minor, if twelve years of age or older, gives written consent to the name change; and
4. It appears to the court that the name change is in the minor's best interests.

S.D. Codified Laws § 21-37-5.1

Does the process require publication?

If all parents are not parties to the petition, then the petitioner must publish notice of the hearing and petition details in a legal newspaper once a week for four weeks, *S.D. Codified Laws § 21-37-4*.

Does the process require parental consent?

Parental consent is required to prevent the petition from being heard in open court and to be exempt from the notice requirements. Otherwise, the petitioner must give notice in the same manner as is required for service of a summons pursuant to section 15-6-4 to any parent that is not a party to the petition and whose parental rights have not been terminated. *S.D. Codified Laws § 21-37-5.1*

What will the judge consider?

If any parents whose parental rights have not been terminated give written consent and the minor, if twelve years of age or older, gives written consent, then the standard is "in the minor child's best interests."

Judges typically evaluate the best interest of the child by looking at a variety of factors, which may include the child's preference (taking into consideration their age and experience), the length of time a child has used that name, the difficulties, harassment, or embarrassment a child may experience from the present or proposed name, and the motives or interests of the parent.

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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.

If the requirements of section [21-37-5.1](#) are not met, then the name change petition is heard in open court pursuant to section [21-37-5](#), and the court must make a finding "that the allegations of the petition are true, and that there exists proper and reasonable cause for changing the name of the petitioner."

S.D. Codified Laws §§ 21-37-5 & -5.1