

How is the child's name decided?

At birth: If the parents are not married, the mother decides the child's name.

If you have a Recognition of Parentage - If the parents are signing a Recognition of Parentage form, they can change the child's last name on the Recognition of Parentage form if they agree. If they do not agree, the child's name stays as it was before. It would take a court action to change the child's last name. See Court Actions below.

If you have a Paternity Order - If the father is named as the legal father by a court order as part of the paternity process, he can ask that the child's name be changed. He needs to do this while the paternity proceeding is going on in court. The court will decide whether or not to accept the change by using the factors described below under "Best Interests Test."

Court Actions: There are 2 ways applications for name change for minor children usually go to court:

(1) as part of paternity proceeding, a parent might ask for the minor child's name to be changed;

(2) as part of a separate proceeding, a parent may ask the court to change the child's name.

The 5 factors the court looks at in deciding whether to change the child's name are the same in both cases.

Application to Court for Name Change of a Minor.

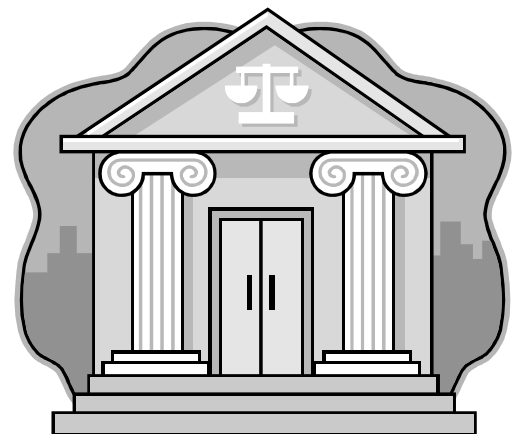
Court cases to change the name of a minor child are under Minnesota Statutes section 259.10 to 259.13, which generally governs all name changes. This law states that:

- a person, including a minor child, must have lived in the State of Minnesota for at least 6 months before the application for the name change
- the application must be made in good faith, without intent to defraud or mislead
- both parents have to know about the application to change a minor's name. If you do not know where the other parent is, you will have to prove that you tried to find them or show good reason not to.

There are state court forms that you can get to apply for a name change of a minor child. You can find them online at www.mncourts.gov. Click on "Forms," then "Name Change," then "Minor Forms." The instructions say that you have to show proof that both parents have been notified of the Application for Name Change. The instructions describe the process and proof that you need to show that the other parent has been notified, like a certified letter to the other parent if the address is known. There is a filing fee for an application to change a minor child's name.

Best Interests Test—5 factors.

If the other parent does not want the child's name to be changed, the court will make sure that the notification and other procedures were done right. The court will usually okay the name change unless they decide that it is not in the best interests of the child. However, the Minnesota Supreme Court has stated that changing a child's last name when one parent does not agree should be considered with



“great caution” and only where “the evidence is clear and compelling that the substantial welfare of the child necessitates such a change.” The best interests of the child is really the biggest factor in changing a child’s last name.

The Minnesota Supreme Court has set up factors that the court can use to decide if changing a child’s last name is in the child’s best interests. But, the court is not limited to these factors. The 5 factors are:

- (1) What the child wants for his or her name;
- (2) If changing the name would affect the child’s relationship with each parent;
- (3) The length of time the child has had the name;
- (4) The degree of community respect associated with the present and the proposed name;
- (5) The difficulties, harassment or embarrassment that the child may go through from the present or proposed name.

Always consult with an attorney for updated legal information.