



NEW YORK STATE
Unified Court System

OFFICE OF COURT ADMINISTRATION

HON. JOSEPH A. ZAYAS
CHIEF ADMINISTRATIVE JUDGE

HON. NORMAN ST. GEORGE
FIRST DEPUTY CHIEF ADMINISTRATIVE JUDGE

DAVID NOCENTI
COUNSEL

MEMORANDUM

To: All Interested Persons

From: David Nocenti

Re: Request for Public Comment – Proposal to amend 22 NYCRR §§ 202.5(e) & 208.4(b) in relation to the sealing of name and sex designation change proceedings

Date: July 19, 2024

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The Administrative Board of the Courts is seeking public comment on a proposal to amend 22 NYCRR §§ 202.5(e) & 208.4(b) to ensure the confidentiality of petitioners seeking name and/or sex designation changes.

Section 64-a(1) of the Civil Rights Law (“CRL”) mandates that the Court seal a name change proceeding, either upon request of the applicant or *sua sponte*, where “open record of an applicant’s change of name would jeopardize such applicant’s personal safety, based on totality of the circumstances.” CRL § 64-a(2) then provides (emphasis added):

Notwithstanding any other provision of law, pending such a finding in subdivision one ... *-where an applicant seeks relief under this section, the court shall immediately order the applicant’s current name, proposed new name, residential and business addresses, telephone numbers, and any other information contained in any pleadings or papers submitted to the court to be safeguarded and sealed in order to prevent their inadvertent or unauthorized use or disclosure while the matter is pending.*

CRL § 67-b(1) requires the Court to order records regarding a sex designation change sealed *sua sponte* or upon request, but unlike CRL § 64-a(1), does not articulate a precondition or standard for that determination. CRL § 67-b(2) contains “notwithstanding” language similar to the CRL § 64-a(2) language quoted above, directing interim sealing pending a determination.

Although these provisions are very beneficial, full confidentiality requires an anonymous caption, which is critical to preventing e-filed matters from being “scraped” and/or otherwise aggregated and reproduced on private websites. Presently, this is achieved through commencing a name and/or sex designation change application by Order to Show Cause, requesting anonymization along with sealing as preliminary interim relief. However, as noted by the Third Department in *Cody W. v. Brandi W.*, 226 A.D.3d 24 (3rd Dep’t 2024), “not all counsel or self-represented litigants will be either aware of this alternative procedure or readily able to proceed in that manner.” *Id.* at 26 n.1.

The amendments being proposed by the Administrative Board would help ensure the confidentiality of petitioners seeking name and sex designation changes by adding new subparagraphs to 22 NYCRR §§ 202.5(e) & 208.4(b), to require that trial court clerks automatically seal and anonymize any application seeking a change of name pursuant to CRL Art. 6 and/or a change of sex designation pursuant to CRL Art. 6-a.

The proposed amendments are attached as Exhibit A.

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Persons wishing to comment on the proposal should e-mail their submissions to rulecomments@nycourts.gov or write to: David Nocenti, Esq., Counsel, Office of Court Administration, 25 Beaver Street, 10th Fl., New York, New York, 10004. Comments must be received no later than Friday, August 30, 2024.

All public comments will be treated as available for disclosure under the Freedom of Information Law and are subject to publication by the Office of Court Administration. Issuance of a proposal for public comment should not be interpreted as an endorsement of that proposal by the Unified Court System or the Office of Court Administration.

EXHIBIT A

PROPOSED AMENDMENTS

Paragraph (e) of Section 202.5 of the Uniform Rules for the Supreme Court and the County Court is amended by adding a new subparagraph (5) to read as follows:

(5) Whenever an application is submitted to a court seeking a change of name pursuant to Civil Rights Law Article 6, change of sex designation pursuant to Civil Rights Law Article 6-a, or both forms of relief in a combined application, then:

1. the application shall be immediately deemed sealed upon filing; and
2. the clerk of the court shall take all reasonable steps necessary to seal and safeguard the applicant's current name, proposed new name, current sex designation, proposed new sex designation, residential and business addresses, telephone numbers, and any other information contained in any pleadings or papers submitted to the court in connection with the application to prevent inadvertent or unauthorized use or disclosure while the matter is pending, including, but not limited, ensuring that such an application proceeds with an anonymous caption, until a determination or further order is issued by the Court.

Paragraph (b) of Section 208.4 of the Uniform Rules for the New York City Civil Court is amended by adding a new subparagraph (5) to read as follows:

(5) Whenever an application is submitted to a court seeking a change of name pursuant to Civil Rights Law Article 6, change of sex designation pursuant to Civil Rights Law Article 6-a, or both forms of relief in a combined application, then:

1. the application shall be immediately deemed sealed upon filing; and
2. the clerk of the court shall take all reasonable steps necessary to seal and safeguard the applicant's current name, proposed new name, current sex designation, proposed new sex designation, residential and business addresses, telephone numbers, and any other information contained in any pleadings or papers submitted to the court in connection with the application to prevent inadvertent or unauthorized use or disclosure while the matter is pending, including, but not limited, ensuring that such an application proceeds with an anonymous caption, until a determination or further order is issued by the Court.