

SENATE JUDICIARY COMMITTEE
Senator Thomas Umberg, Chair
2023-2024 Regular Session

SB 1150 (Laird)
Version: February 14, 2024
Hearing Date: April 2, 2024
Fiscal: No
Urgency: No
AWM

SUBJECT

Dissolution or nullity of marriage: restoration of former name or birth name

DIGEST

This bill clarifies that the provisions permitting the restoration of a party's prior last name in a proceeding for dissolution or nullity of marriage apply to either partner in the marriage, regardless of gender.

EXECUTIVE SUMMARY

Under California law, the dissolution or nullity of a marriage must be done through a court proceeding. As part of that proceeding, a party may request that the court restore the name they had prior to the marriage; the court must grant the request unless there is evidence of fraud on behalf of the requesting party. The statutes establishing this procedure themselves are gender-neutral, but the heading of the chapter setting forth the procedure is still titled "Restoration of Wife's Former Name."

Given that not all marriages include a wife, and that wives are not the only spouses who change their last names in marriage, the current chapter title does not reflect the state of the law or the diversity of genders and name-changing decisions involved in marriages today. This bill resolves this oversight by changing the chapter title to "Restoration of Partner's Former Name," and also makes nonsubstantive technical and conforming changes to the statutes setting forth the name-restoration procedure.

This bill is sponsored by the author and is supported by the Child Support Directors Association of California. The Committee has not received timely opposition to this bill.

PROPOSED CHANGES TO THE LAW

Existing law:

- 1) Sets forth the proceedings and procedures for the dissolution of marriage, for nullity of marriage, or for the separation of the parties to the marriage. (Fam. Code, div. 6, §§ 2000 et seq.)
- 2) Establishes, among the procedures in 1), Chapter 7 of Part 1 of Division 6 of the Family Code, entitled "Restoration of Wife's Former Name." (Fam. Code, Div. 6, pt. 1, ch. 7, §§ 2080 et seq.)
- 3) Provides, within 2, the following:
 - a) In a proceeding for dissolution of marriage or for nullity of marriage, but not in a proceeding for legal separation of the parties, the court, upon the request of a party, shall restore the birth name or former name of that party, regardless of whether a request for restoration of the name was included in the petition for dissolution or nullity. (Fam. Code, § 2080.)
 - b) The restoration of a former birth name, when requested under 3)(a), shall not be denied on the basis that the party has custody of a minor child or bears a different name or for any other reason except fraud. (Fam. Code, § 2081.)
 - c) The above provisions do not abrogate the common law right of any person to change their name. (Fam. Code, § 2082.)

This bill:

- 1) Renames Chapter 7 of Part 1 of Division 6 of the Family Code to "Restoration of Partner's Former Name."
- 2) Makes nonsubstantive technical and conforming changes.

COMMENTS

1. Author's comment

According to the author:

California has made a commitment to update current laws and introduce new legislation with language that is gender neutral in order to represent and protect the rights of all Californians. Modern marriages consist of spouses of all gender identities and modern laws should reflect that.

2. This bill updates the provisions relating to the restoration of a person's former name after the dissolution or nullity of a marriage and makes them gender-neutral

Under California law, a marriage must be dissolved or nullified through a court proceeding.¹ As part of that proceeding, a party to the marriage who changed their last name to match their spouse's last name may request that the court restore their prior last name.² The court must grant the request absent evidence of fraud.³ This procedure does not affect a person's existing common law right to change their name outside of the dissolution or nullity proceeding.⁴

The statutes setting forth the streamlined name change procedure are set forth in a chapter entitled "Restoration of a Wife's Former Name."⁵ They were last amended in the early and mid-1990s, when the statutes themselves were modified to use gender-neutral language; the title of the chapter, however, remained the same.⁶ This bill simply changes the term "wife's" to "partner's" in the chapter title, bringing the title into conformity with the statutes and the remainder of state law regarding marriage, and makes nonsubstantive technical and conforming changes to the statutes within the chapter.

According to the Child Support Directors Association of California, writing in support:

The family unit has evolved significantly over the past decades. Research from the UCLA School of Law Williams Institute indicates that 24% of LGBTQIA+ families in California are raising children. SB 1150 represents an essential update to our legal framework, ensuring that our laws are inclusive and respectful of all individuals and family configurations. This amendment aligns with CSDA's vision of transforming the lives of children and our mission to advocate, educate, and collaborate on behalf of local child support agencies. By supporting this bill, we can create a more inclusive and equitable legal system that recognizes the changing dynamics of families in California

¹ See generally Fam. Code, div. 6, §§ 2000 et seq.

² *Id.*, § 2080.

³ *Id.*, § 2081. The statute goes out of its way to specify that the court may not deny the request on the basis that the requesting party has a minor child who has a different last name, suggesting courts at one point had difficulty wrapping their heads around the idea that a parent could have a different last name from their child. (*See ibid.*)

⁴ *Id.*, § 2082.

⁵ *Id.*, div. 6, pt. 1, ch. 7.

⁶ See SB 1033 (Senate Committee on Judiciary, Ch. 1061, Stats. 1996); AB 2650 (Spier, Ch. 162, Stats. 1992).

SUPPORT

Child Support Directors Association of California

OPPOSITION

None received

RELATED LEGISLATION

Pending Legislation: None known.

Prior Legislation: None known.
