

JUDICIAL COUNCIL OF CALIFORNIA

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INVITATION TO COMMENT

SPR22-05

Title	Action Requested
Rules and Forms: Name Change Forms for Persons in Address Confidentiality Program	Review and submit comments by May 13, 2022
Proposed Rules, Forms, Standards, or Statutes	Proposed Effective Date
Revise forms NC-400, NC-400-INFO, NC-410, NC-420, and NC-425	January 1, 2023
Proposed by	Contact
Civil and Small Claims Advisory Committee Hon. Tamara Wood, Chair	Anne M. Ronan, 415-865-8933 anne.ronan@jud.ca.gov

Executive Summary and Origin

The Civil and Small Claims Advisory Committee is proposing revisions and additions to the Judicial Council forms that participants in the Secretary of State's address confidentiality program (Safe at Home) may use to request a confidential name change or to request that their petition for name change be filed under seal. These changes are recommended based on a request that courts ensure that confidential name changes are on file with the Secretary of State's office before a decree is issued by the court.

Background

The Secretary of State's office, which administers the Safe at Home program, has asked that the courts make it clearer to petitioners that they must have the proposed name on file with the Safe at Home program before filing a petition for the intended name change. (Code Civ. Proc. § 1277(b).) Petitioners who wish to seek a name change receive, after submitting a Notice of Intent of Name Change form with Safe at Home program, a letter confirming that they are an active participant in the program and that their intended change of name is on file with the program. Currently, the information sheet provides that the letter should be made available to the court, but the Safe at Home program has asked that this provision be required so the courts are not considering a petition for a confidential name change before the proposed name is on file with the program. Having that form on file with the Secretary of State is a precondition to the confidential name change decree because the form is the only documentation that lists both the new and the old name of the participant. Because the new name is not included in the court files, no other record of the new name exists.

This proposal has not been approved by the Judicial Council and is not intended to represent the views of the council, its Rules Committee, or its Legislation Committee. It is circulated for comment purposes only.

The Proposal

In order to ensure that the program participant's proposed new name is on file with the program office before a petition for change of name is filed with the court, the committee proposes revisions to five forms for confidential name changes, which are summarized below.

- *Confidential Cover Sheet—Name Change Proceeding Under Address Confidentiality Program (Safe at Home)* (form NC-400). This form must be attached to any petition for change of name under the address confidentiality program. The proposed revision adds as item 1 the required letter from the Secretary of State's office, confirming that the applicant's intended name change is on file with that office. Minor corrections to the form have been made at the same time.
- *Information Sheet for Name Change Proceedings Under Address Confidentiality Program (Safe at Home)* (form NC-400-INFO). This information sheet provides instructions on filing for a confidential name change under the Safe at Home program. In item 3, the committee proposes adding a statement instructing that the letter from the Secretary of State be filed with the court. The instruction in item 7d has been similarly revised. There are also minor changes to correct cross-references and simplify some language.
- *Application to File Documents Under Seal in Name Change Proceeding Under Address Confidentiality Program (Safe at Home)* (form NC-410). This form is used when a petitioner seeks to file a petition for name change under seal. Petitioners must be active participants in the Safe at Home program, must have a Notice of Intent of Name Change on file with the Secretary of State's office, and must allege that they are pursuing a name change to avoid domestic violence, stalking, sexual assault, or human trafficking. In item 2, the required letter from the Secretary of State's office has been added to the list of forms that may be filed under seal. There is also a minor correction to the citation to the Government Code in item 1.
- *Declaration in Support of Application to File Documents Under Seal in Name Change Proceeding Under Address Confidentiality Program (Safe at Home)* (form NC-420). This form is a mandatory declaration for a petitioner seeking to file a name change petition under seal. In item 2, the committee proposes to insert the statement, "I have on file with the Secretary of State a Notice of Intent of Name Change."
- *Order on Application to File Documents Under Seal in Name Change Proceeding Under Address Confidentiality Program (Safe at Home)* (form NC-425). This is an optional form for courts to use when issuing an order on a petition to file a name change petition under seal. The committee proposes adding the required letter from the Secretary of State's office to the list of documents that the court may allow to be filed under seal.

Alternatives Considered

The committee considered taking no action at this time, but because almost the entire series of name change and gender recognition forms is currently being revised to reflect statutory changes, it seems logical to include this revision in the current rule and form cycle so courts could deal with them all at the same time.

Fiscal and Operational Impacts

The changes will require education of court staff and judicial officers to ensure that the letter provided by the Secretary of State is filed with other initiating documents.

Request for Specific Comments

In addition to comments on the proposal as a whole, the advisory committee is interested in comments on the following:

- Does the proposal appropriately address the stated purpose?

The advisory committee also seeks comments from *courts* on the following cost and implementation matters:

- Would the proposal provide cost savings? If so, please quantify.
- What would the implementation requirements be for courts—for example, training staff (please identify position and expected hours of training), revising processes and procedures (please describe), changing docket codes in case management systems, or modifying case management systems?
- Would 3 months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation?
- How well would this proposal work in courts of different sizes?

Attachments and Links

1. Forms NC-400, NC-400-INFO, NC-410, NC-420, and NC-425, at pages 4–10

ATTORNEY (<i>leave blank if no attorney</i>) NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: E-MAIL ADDRESS: ATTORNEY FOR (<i>name</i>): [CONFIDENTIAL]	STATE BAR NUMBER: FOR COURT USE ONLY DRAFT 03/22/2022 Not approved by the Judicial Council
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
PETITION OF (<i>name of each petitioner</i>): <p align="center">[CONFIDENTIAL]</p>	
CONFIDENTIAL COVER SHEET—NAME CHANGE PROCEEDING UNDER ADDRESS CONFIDENTIALITY PROGRAM (SAFE AT HOME)	CASE NUMBER:

INSTRUCTIONS: This petition for change of name is being brought by a petitioner who is a participant in the Secretary of State's address confidentiality program under Government Code section 6205 et seq. and who is petitioning (1) to avoid domestic violence, (2) to avoid stalking, (3) to avoid sexual assault, or (4) to avoid human trafficking. **As provided by Code of Civil Procedure section 1277(b), the current legal name of the petitioner must be kept confidential by the court and must not be published or posted in the court's calendars, indexes, or register of actions, or by any means or in any public forum.**

This Confidential Cover Sheet must be affixed to the first page of the petition and to any other documents filed in this name change action. (See *Information Sheet for Name Change Proceedings Under Address Confidentiality Program (Safe at Home)* (form NC-400-INFO).)

This cover sheet is affixed to the following documents (*check all that apply*):

1. Letter from Secretary of State's office confirming that petitioner is an active participant in the confidential address program and that a Notice of Intent of Name Change is on file
2. *Petition for Change of Name* (form NC-100)
3. *Attachment to Petition for the Name Change* (form NC-110)
4. *Order to Show Cause for Change of Name* (form NC-120)
5. *Decree Changing Name* (form NC-130)
6. *Civil Case Cover Sheet* (form CM-010)
7. *Application to File Documents Under Seal in Name Change Proceeding Under Address Confidentiality Program (Safe at Home)* (form NC-410)
8. *Declaration in Support of Application to File Documents Under Seal in Name Change Proceeding Under Confidentiality Program (Safe at Home)* (form NC-420)
9. *Order on Application to File Documents Under Seal in Name Change Proceeding Under Address Confidentiality Program (Safe at Home)* (form NC-425)
10. *Other (describe):* _____

Date:

The name of the petitioner is to remain confidential UNLESS:

1. The petitioner's participation in the address confidentiality program is ended (Gov. Code, § 6206.7); or
2. The court finds by clear and convincing evidence that the **allegations of domestic violence, stalking, or sexual assault** in the petition are false. (Code Civ. Proc., § 1278(b).)

1 Confidentiality in Name Change Proceedings

It is important that you understand that changing your name, especially confidentially, is a life-changing decision. It may make it more difficult for you to enforce a restraining order and significantly impair your ability to obtain a passport, apply for school programs, purchase or rent property, gain employment, get credit, start a business, and other matters.

The law provides confidentiality for a petitioner seeking a name change who is a participant in the Secretary of State's confidential address program, Safe at Home, under Government Code section 6205 et seq., *and* who asserts reasons for a name change that include seeking (1) to avoid domestic violence, (2) to avoid stalking, (3) to avoid sexual assault, or (4) to avoid human trafficking. (One of these reasons must be stated in the papers filed with the *Petition for Change of Name* (form NC-100).)

By law, the court must keep the current legal name of such a petitioner confidential. The court must not publish or post the name in the court's calendars, indexes, or registers of actions, or in any other place in which it might be accessible to the public. In addition, the proposed new name is not put into the court records at all and does not have to be published. (Code Civ. Proc., § 1277(b).)

To ensure this confidentiality for the name change proceeding, petitioners must follow the instructions below.

2 Is a Lawyer Necessary?

You are not required to have a lawyer, but it is highly advisable that you contact a lawyer or legal service agency to discuss the effects of a confidential name change.

3 How to Get Started

Before beginning the court process for a confidential name change, you must be an active participant in the Safe at Home program. You must complete and file a Notice of Intent of Name Change with the Safe at Home program at the Secretary of State's office. You will receive a letter from that program to show to the court, confirming **that you are an active participant in the confidential address program and that a Notice of Intent of Name Change is on file. This letter must be filed with the court.** You can reach the Safe at Home program by calling toll free 1-877-322-5227 or **by going to www.sos.ca.gov/safeathome.**

4 Where to File

As with all name change petitions, the petition filed under the confidential address program must be filed in the superior court of the county where the person whose name is to be changed presently lives.

5 Whose Name May Be Changed

The petition may be used to change one's own name and, under certain circumstances, the names of others (e.g., children under 18 years of age). There are no filing fees for minors in the Safe at Home program.

6 Name Changes for Children

A petitioner in the confidential address program must comply with all the rules stated in item 8 in the *Instructions* on the back of the *Petition for Change of Name* (form NC-100-INFO), concerning serving notice of a name change petition for a child on the child's parents or grandparents. The confidentiality provisions do not change those requirements. You will generally not be able to change a child's name without notifying the other parent.

7 What Forms Are Required

Prepare an original and two copies of the forms described in item 4 of the *Instructions* for Filing a *Petition for Change of Name* (form NC-100-INFO). In addition:

- In the *Petition for Change of Name* (form NC-100), *Order to Show Cause for Change of Name* (form NC-120), and *Decree Changing Name* (form NC-130), include your present name where indicated. Instead of including the proposed new name, indicate that the new name is confidential and **on file with the Secretary of State's Safe at Home program.**
- In the *Attachment to the Petition for Change of Name* (form NC-110), include the reasons for seeking the name change.
- Prepare and attach to the front of each document a *Confidential Cover Sheet --Name Change Proceeding Under Address Confidentiality Program (Safe at Home)* (form NC-400). Do not include the petitioner's current name on these forms. These forms will flag the documents as containing confidential information.
- You will also need to file the letter from the Safe at Home when filing the petition, to confirm that you are in the confidential address program and have a Notice of Intent of Name Change on file with the Safe at home program. Keep a copy of that letter for your records.**



8 Filing

Follow the instructions in item 5 of the *Instructions for Filing a Petition for Change of Name* (form NC-100-INFO). Prepare and attach a *Confidential Cover Sheet* (form NC-400) to the *Civil Case Cover Sheet* (form CM-010), your petition, and any other document you file under that item.

9 Requesting a Court Hearing Date and Obtaining the Order to Show Cause

You should request a date for the hearing on the *Order to Show Cause for Change of Name* at least six weeks after the date you file the petition. Take the completed form to the clerk's office. The clerk will provide the hearing date and location, obtain the judicial officer's signature, file the original, and give you a copy.

10 No Requirement to Publish the Order to Show Cause

In most cases, the *Order to Show Cause for Change of Name* must be published in a local newspaper of general circulation. But a petitioner does not have to publish the order if a participant in the address confidentiality program and the petition alleges that petitioner (1) is petitioning to avoid domestic violence, (2) is petitioning to avoid stalking, or (3) is a victim of sexual assault, or is filing on behalf of a victim of sexual assault.

11 Court Hearing

If no written objection is filed at least two court days before the hearing, the court may grant the petition without a hearing. Check with the court to find out if a hearing will be held. If there is a hearing, bring copies of all documents to the hearing. If the judge grants the petition, the judge will sign the original decree.

12 Application to File Documents Under Seal

If a petitioner in the confidential address program believes that the protections described above and required by law that keeping the current and future name confidential are not sufficient in a particular case, the petitioner may ask the court to file the petition and related documents under seal. Documents filed under seal are secured and kept separate from the public files.

For the court to order that the petition may be filed under seal, you must show facts to support the following findings by the court:

- There is an overriding interest that overcomes the right of public access to the record.
- That overriding interest supports sealing the name change documents.

- A substantial probability exists that the overriding interest will be prejudiced if the record is not sealed.
- The proposed order to seal the records is narrowly tailored to protect that overriding interest.
- No less restrictive means than sealing the whole record exist to achieve the overriding interest.

A petitioner in the confidential address program may file an application to file records under seal following the procedures in rule 2.577 of the California Rules of Court. The application must be made on the *Application to File Documents Under Seal in Name Change Proceeding Under Address Confidentiality Program (Safe at Home)* (form NC-410) and be accompanied by a *Declaration in Support of Application to File Documents Under Seal in Name Change Proceeding Under Address Confidentiality Program (Safe at Home)* (form NC-420), containing facts sufficient to justify the sealing.

Attach a *Confidential Cover Sheet* (form NC-400) to the application. All the documents that you want filed under seal must be put in a sealed envelope, with a completed *Confidential Cover Sheet* (form NC-400) on top marked "Conditionally Under Seal" and lodged with the court. If the application is denied, the documents will be returned by the clerk unless you file written notice within 10 days that they should be filed unsealed.

13 Making the Records Public

Even if the documents are not sealed, as long as the other requirements are met, your name will remain confidential **UNLESS**:

- Your participation in the address confidentiality program is ended under Government Code section 6206.7; or
- The court finds by clear and convincing evidence that the allegations of domestic violence, stalking, or sexual assault in the petition are false (see Code of Civil Procedure section 1278(b)).

If another person or a court wants to make the records public based on the above, the court must hold a hearing, with notice sent to the petitioner in care of the Safe at Home program, as permitted under Government Code section 6206(a)(5)(A).

Local courts may supplement these instructions. For instance, the court may provide you with additional written information identifying the department that handles name change petitions and the times when petitions are heard. Check with the court to determine whether supplemental information is available.



ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): TELEPHONE NO.: _____ FAX NO. (Optional): _____ E-MAIL ADDRESS (Optional): _____ ATTORNEY FOR (Name): _____	FOR COURT USE ONLY DRAFT 03/22/2022 Not approved by the Judicial Council
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
PETITION OF (Name of each petitioner):	
APPLICATION TO FILE DOCUMENTS UNDER SEAL IN NAME CHANGE PROCEEDING UNDER ADDRESS CONFIDENTIALITY PROGRAM (SAFE AT HOME)	CASE NUMBER:

Before you complete this petition, you should read the *Information Sheet for Name Change Proceedings Under Address Confidentiality Program (Safe at Home)* (form NC-400-INFO). You must file a *Declaration in Support of Application to File Documents Under Seal in Name Change Proceeding Under Address Confidentiality Program (Safe at Home)* (form NC-420) with this application. You must file this application and the petition in the superior court of the county where the person whose name is to be changed resides.

1. Petitioner (name): _____ is a participant in the Secretary of State's address confidentiality program under Government Code sections 6205–6210 and is alleging one of the following as a reason for the name change: (1) seeking to avoid domestic violence, (2) seeking to avoid stalking, (3) seeking to avoid sexual assault, or (4) seeking to avoid human trafficking.
2. Petitioner requests that the court file the following documents under seal:
 - a. Letter from Secretary of State's office confirming that petitioner is an active participant in the confidential address program and that a Notice of Intent of Name Change is on file
 - b. Petition for Change of Name (form NC-100)
 - c. Attachment to Petition for Change of Name (form NC-110)
 - d. Order to Show Cause for Change of Name (form NC-120)
 - e. Decree Changing Name (form NC-130)
 - f. Civil Case Cover Sheet (form CM-010)
 - g. Application to File Documents Under Seal in Name Change Proceeding Under Address Confidentiality Program (Safe at Home) (form NC-410)
 - h. Declaration in Support of Application to File Documents Under Seal in Name Change Proceeding Under Address Confidentiality Program (Safe at Home) (form NC-420)
 - i. Order on Application to File Documents Under Seal in Name Change Proceeding Under Address Confidentiality Program (Safe at Home) (form NC-425)
 - j. Other (specify): _____
3. The facts that support this petition to file the documents checked above under seal are stated in the *Declaration in Support of Application to File Documents Under Seal in Name Change Proceeding Under Address Confidentiality Program (Safe at Home)* (form NC-420).
4. Petitioner has completed each of the documents checked above, placed them in a sealed envelope, and is lodging the envelope with the court along with this application.

Date: _____

(TYPE OR PRINT NAME)

▶

(SIGNATURE OF ATTORNEY OR PETITIONER WITHOUT ATTORNEY)

ATTORNEY OR PARTY WITHOUT ATTORNEY STATE BAR NUMBER: NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: E-MAIL ADDRESS: ATTORNEY FOR (name):	FOR COURT USE ONLY <p style="text-align: center; font-size: 24pt;">DRAFT</p> <p style="text-align: center; font-size: 24pt;">03/22/22</p> <p style="text-align: center; font-size: 24pt;">Not Approved by Judicial Council</p>
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
PETITION OF (name of each petitioner):	
<p style="text-align: center;">DECLARATION IN SUPPORT OF APPLICATION TO FILE DOCUMENTS UNDER SEAL IN NAME CHANGE PROCEEDING UNDER ADDRESS CONFIDENTIALITY PROGRAM (SAFE AT HOME)</p>	CASE NUMBER:

I (name): declare as follows:

1. I have personal knowledge of the facts stated in this declaration and could and would testify competently to those facts.
2. I am a participant in the Secretary of State's confidential address program, Safe at Home. I have on file with the Secretary of State a Notice of Intent of Name Change.
3. I am seeking a name change (check all that apply):
 - a. To avoid domestic violence.
 - b. To avoid stalking.
 - c. To avoid sexual assault.
 - d. To avoid human trafficking.
4. Facts showing that there is an overriding interest that overcomes the right of public access to the records in this name change proceeding are (specify):

Continued on Attachment 4 (If you need more space, attach form MC-025.)

5. Facts showing that the overriding interest described in item 4 supports filing the documents in this name change proceeding under seal are (specify):

Continued on Attachment 5. (If you need more space, attach form MC-025.)

PETITIONER:	CASE NUMBER:
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6. Facts showing that there is a substantial probability that the overriding interest described in item 4 will be prejudiced if the records in this name change proceeding are not sealed are *(specify)*:

Continued on Attachment 6. *(If you need more space, attach form MC-025.)*

7. Facts showing that an order sealing the records in this action is narrowly tailored to protect that overriding interest are *(specify)*:

Continued on Attachment 7. *(If you need more space, attach form MC-025.)*

8. Facts showing that there is no less restrictive means to protect that overriding interest than filing the entire record under seal are *(specify, including facts that show why the law requiring the court to keep the current name and the proposed name confidential, is not sufficient protection of that interest)*:

Continued on Attachment 8. *(If you need more space, attach form MC-025.)*

The number of pages attached is:

I declare under penalty of perjury under the laws of the State of California that the foregoing, including statements on all attachments, is true and correct.

Date:

(TYPE OR PRINT NAME)



(SIGNATURE OF DECLARANT)

ATTORNEY (Name, State Bar number, and address): TELEPHONE NO.: _____ FAX NO. (Optional): _____ E-MAIL ADDRESS (Optional): _____ ATTORNEY FOR (Name): [CONFIDENTIAL]	<p style="text-align: center;">FOR COURT USE ONLY</p> <p style="text-align: center; font-size: 24pt;">DRAFT</p> <p style="text-align: center; font-size: 24pt;">03/22/22</p> <p style="text-align: center; font-size: 24pt;">Not Approved by Judicial Council</p>
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
PETITION OF (Name of each petitioner): <p style="text-align: center;">[CONFIDENTIAL]</p>	
<p style="text-align: center;">ORDER ON APPLICATION TO FILE DOCUMENTS UNDER SEAL IN NAME CHANGE PROCEEDING UNDER ADDRESS CONFIDENTIALITY PROGRAM (SAFE AT HOME)</p>	CASE NUMBER: _____

1. The application was duly considered
- a. at the hearing on (date): _____ in Department: _____ of the above-entitled court.
- b. without hearing.

THE COURT FINDS

2. a. As to whether the following factors apply to the documents for which filing under seal has been requested:
- (1) An overriding interest that overcomes the right of public access to the record does does not exist.
 - (2) The overriding interest does does not support sealing the record.
 - (3) A substantial probability does does not exist that the overriding interest will be prejudiced if the record is not sealed.
 - (4) The proposed order to seal this record is is not narrowly tailored.
 - (5) A less restrictive means to achieve the overriding interest does not does exist.
- b. Other findings (if any): _____

THE COURT ORDERS

3. The application to file documents under seal is **denied**. The documents will be returned to petitioner unless petitioner informs the clerk of the court within 10 days that petitioner wants the unsealed documents to be filed.
4. The application to file documents under seal is **granted**. The following documents may be filed under seal:
- a. Letter from Secretary of State's office confirming that petitioner is an active participant in the confidential address program and that a Notice of Intent of Name Change is on file
 - b. Petition for Change of Name (form NC-100)
 - c. Attachment to Petition for Change of Name (form NC-110)
 - d. Order to Show Cause for Change of Name (form NC-120)
 - e. Decree Changing Name (form NC-130)
 - f. Civil Case Cover Sheet (form CM-010)
 - g. Application to File Documents Under Seal in Name Change Proceeding Under Address Confidentiality Program (Safe at Home) (form NC-410)
 - h. Declaration in Support of Application to File Documents Under Seal in Name Change Proceeding Under Address Confidentiality Program (Safe at Home) (form NC-420)
 - i. Order on Application to File Documents Under Seal in Name Change Proceeding Under Address Confidentiality Program (Safe at Home) (form NC-425)
 - j. Other (specify): _____
5. Other order (if any): _____

Date: _____ JUDGE OF THE SUPERIOR COURT