

# House Bill 2959

Sponsored by Representative FREDERICK; Representatives BAILEY, BARKER, DEMBROW, GELSER (Pre-session filed.)

## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Expands options for name after marriage or after entering into registered domestic partnership. Allows amendment of name for marriages and registered domestic partnerships entered into before effective date of Act. Requires State Registrar of Center for Health Statistics to provide standard form to amend name after marriage. Requires Oregon Health Authority to provide form to amend name after entering into registered domestic partnership.

Declares emergency, effective on passage.

## A BILL FOR AN ACT

1  
2 Relating to names after entering into certain legal relationships; amending ORS 106.041, 106.100,  
3 106.220, 106.320, 106.335 and 106.990; and declaring an emergency.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1.** ORS 106.041 is amended to read:

6 106.041. (1) All persons wishing to enter into a marriage contract shall obtain a marriage license  
7 from the county clerk upon application, directed to any person or religious organization or congrega-  
8 tion authorized by ORS 106.120 to solemnize marriages, and authorizing the person, organization  
9 or congregation to join together as husband and wife the persons named in the license.

10 (2) The State Registrar of the Center for Health Statistics shall provide a standard form of the  
11 application, license and record of marriage to be used in this state that must include:

12 (a) Each applicant's Social Security number recorded on a confidential portion of the applica-  
13 tion, license and record of marriage;

14 (b) Certain statistical data regarding age, place of birth, sex, occupation, residence and previous  
15 marital status of each applicant;

16 (c) The name and address of the affiant under ORS 106.050, if required; and

17 (d) Each applicant's name after marriage as provided in ORS 106.220.

18 **(3) The state registrar shall provide a standard form to amend an original application,**  
19 **license and record of marriage as provided in ORS 106.220 (3).**

20 *[(3)]* (4) Each applicant for a marriage license shall file with the county clerk from whom the  
21 marriage license is sought a written application for the license on forms prescribed for this purpose  
22 by the Center for Health Statistics.

23 *[(4)]* (5) A marriage license must contain the following statement: "Neither you nor your spouse  
24 is the property of the other. The laws of the State of Oregon affirm your right to enter into marriage  
25 and at the same time to live within the marriage free from violence and abuse."

26 *[(5)]* (6) An applicant may not intentionally make a material false statement in the records re-  
27 quired by this section.

28 *[(6)]* (7) The county clerk may not issue a marriage license until the provisions of this section

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 and ORS 106.050 and 106.060 are complied with.

2 **SECTION 2.** ORS 106.220 is amended to read:

3 106.220. (1) Upon entering into marriage, either party may:

4 (a) Retain the party's **middle name, if any, and** surname prior to the marriage; *[or]*

5 (b) **Retain the party's middle name, if any, and** change the party's surname to the surname  
6 of the other party; *[or]*

7 (c) **Either retain or remove the party's middle name, if any, and change the party's sur-**  
8 **name** to a *[hyphenated]* combination of the surnames of both parties, **with or without a hyphen;**

9 (d) **Change the party's middle name, if any, to the party's surname prior to the**  
10 **marriage**. *If a party requests a surname change under this section, that party may also change the*  
11 *party's middle name to the party's surname prior to the marriage.*; **or**

12 (e) **Add to the party's middle name, if any, the party's surname prior to the marriage**  
13 **and change the party's surname to the surname of the other party.**

14 (2) Each party must indicate on the application, license and record of marriage the party's name  
15 after marriage.

16 (3) **A party who entered into marriage before the effective date of this 2011 Act may**  
17 **change the party's name as recorded on the original application, license and record of mar-**  
18 **riage to a name after marriage as provided in subsection (1) of this section by completing**  
19 **the form described in ORS 106.041 (3).**

20 *[(2)]* (4) The name of each party after marriage as indicated on the **original or amended** ap-  
21 plication, license and record of marriage shall become the sole legal name of each party after mar-  
22 riage. If a party indicates a name change other than as described in subsection (1) **or (3)** of this  
23 section, the party shall request approval of the court pursuant to ORS 33.410.

24 (5) **As used in this section, "middle name" and "surname" mean a name that may consist**  
25 **of one or more different names.**

26 **SECTION 3.** ORS 106.100 is amended to read:

27 106.100. (1) The county clerk who issues the marriage license shall maintain records relating to  
28 marriages licensed in the county. The records must include the names of the parties **before and**  
29 **after marriage, and as amended under ORS 106.220 (3), if applicable,** the consent of the parent  
30 or guardian, if any, the name of the affiant, the substance of the affidavit upon which the license  
31 issued and the date of the license.

32 (2) Upon return of the completed application, license and record of marriage under ORS 106.170,  
33 the county clerk shall add the date of the marriage ceremony to the clerk's records maintained un-  
34 der subsection (1) of this section and file the completed application, license and record of marriage.  
35 Except as provided in ORS 205.320, the county clerk may not charge a fee for filing, recording or  
36 indexing the application, license and record of marriage.

37 (3) The county clerk shall[,];

38 (a) Upon completion of the requirements of this section and ORS 106.077, deliver the original  
39 completed application, license and record of marriage to the Center for Health Statistics as required  
40 under ORS 432.405; **and**

41 (b) **Where applicable under ORS 106.220 (3), deliver the amended application, license and**  
42 **record of marriage to the Center for Health Statistics.**

43 (4) Notwithstanding any other provision of law, the record of marriage maintained by a county  
44 clerk is not a vital record as defined in ORS 432.005 and is a public record open and subject to full  
45 disclosure.

**SECTION 4.** ORS 106.320 is amended to read:

106.320. (1) The Oregon Health Authority shall prepare forms entitled:

(a) “Declaration of Domestic Partnership” meeting the requirements of ORS 106.325; *[and]*

(b) “Certificate of Registered Domestic Partnership[.]”; **and**

**(c) “Amendment to Declaration of Domestic Partnership and Certificate of Registered Domestic Partnership Changing Name After Entering into Registered Domestic Partnership” meeting the requirements of ORS 106.335.**

(2) The authority shall distribute the forms to each county clerk. The authority and each county clerk shall make the Declaration of Domestic Partnership forms **and the Amendment to Declaration of Domestic Partnership and Certificate of Registered Domestic Partnership Changing Name After Entering into Registered Domestic Partnership forms** available to the public.

**SECTION 5.** ORS 106.335 is amended to read:

106.335. (1) Upon entering into a domestic partnership, either party to the domestic partnership may:

(a) Retain the party’s **middle name, if any, and** surname prior to the domestic partnership; *[or]*

(b) **Retain the party’s middle name, if any, and** change the party’s surname to the surname of the other party; *[or]*

(c) **Either retain or remove the party’s middle name, if any, and change the party’s surname** to a *[hyphenated]* combination of the surnames of both parties, **with or without a hyphen;**

(d) **Change the party’s middle name, if any, to the party’s surname prior to the domestic partnership.** *If a party requests a surname change under this section, that party may also change the party’s middle name to the party’s surname prior to the domestic partnership.*; **or**

(e) **Add to the party’s middle name, if any, the party’s surname prior to the domestic partnership and change the party’s surname to the surname of the other party.**

(2) Each party must indicate on the Declaration of Domestic Partnership the party’s name after domestic partnership.

(3) **A party who entered into a domestic partnership before the effective date of this 2011 Act may change the party’s name as recorded on the original Declaration of Domestic Partnership and Certificate of Registered Domestic Partnership to a name after domestic partnership as provided in subsection (1) of this section by completing the form described in ORS 106.320 (1)(c).**

*[(2)]* (4) The name of each party after domestic partnership as indicated on the **original or amended** Declaration of Domestic Partnership shall become the sole legal name of each party after domestic partnership. If a party indicates a name change other than as described in subsection (1) **or (3)** of this section, the party shall request approval of the court pursuant to ORS 33.410.

(5) **As used in this section, “middle name” and “surname” mean a name that may consist of one or more different names.**

(6) **Upon receipt of an Amendment to Declaration of Domestic Partnership and Certificate of Registered Domestic Partnership Changing Name After Entering into Registered Domestic Partnership, the county clerk shall enter the amendment into the registry of domestic partnerships maintained by the county clerk.**

**SECTION 6.** ORS 106.990 is amended to read:

106.990. (1) Violation of ORS 106.041 *[(5)]* (6) is punishable, upon conviction, by a fine of not more than \$100 or by imprisonment in the county jail for not more than 30 days, or both.

1 (2) Violation of ORS 106.110 or 106.140 is punishable upon conviction by imprisonment in the  
2 custody of the Department of Corrections or county jail for not more than one year, or by a fine  
3 of not more than \$500 nor less than \$100.

4 (3) Refusal or neglect to comply with ORS 106.170 shall result in the forfeiture of a penalty of  
5 not less than \$10 nor more than \$50 to be recovered by action for every five days of such refusal  
6 or neglect.

7 **SECTION 7. This 2011 Act being necessary for the immediate preservation of the public**  
8 **peace, health and safety, an emergency is declared to exist, and this 2011 Act takes effect**  
9 **on its passage.**

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