



Malheur County Clerk

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HB 3015 Adds options for name after marriage or after entering into registered domestic partnership. Allows parties to retain or remove middle names and change surnames to one surname or combination of surnames.

Sponsored by Representative Bentz; Representatives Esquivel, Komp

Testimony in support of HB 3015

I asked Representative Bentz to help amend the current law that would add language allowing persons with double surnames to take **one surname name** or a combination of surnames.

In the Hispanic heritage, babies are given two names for their surname on their birth certificate. The first name of the baby's surname is their father's name and the second name of the baby's surname is their mother's name (father mother). For example, when a man with the double surname of **Perez Hernandez** and a woman with the surname of **Martinez Gomeza** seek a marriage license, at least 75% of the time they will request that they simply become Mr. and Mrs. **Perez**. Current law has been interpreted as not allowing this choice.

Many, many times a couple will indicate that they have gone all through the school systems known as Mr. Perez and Miss Martinez. They are not known, nor do they have documentation, with double surnames. School records, deeds, mortgages, leases, banking, credit reports, religious documents, as well as family and community recognition all document Mr. Perez and Miss Martinez. Frequently they make the comment that they want to become Americanized.

Current law allows them to keep their current surname; or,
change the surname to the other party's surname; or,
change the surname to a combination, hyphenated or not, of the bride's and groom's surname, in either order.

As it stands currently, all those newly married couples that are dissatisfied with their new married surnames have to file papers in Circuit Court to have a legal name change which costs them \$111 for each person. In contrast, HB 3015 will NOT have any negative economic impact to couples, the county or state.

"The wisdom to know and the courage to defend the public interest"

History:

2007 HB 3120 Directs State Registrar of Center for Health Statistics to create standard forms of marriage application, license and record. Directs county clerks to create commemorative marriage certificate. Reduces time within which person solemnizing marriage must return marriage forms to county clerk.

This was the first time parties were required to declare legal names after marriage or domestic partnership on the Vital Records Marriage application, license and record of marriage form.

2013 SB 406 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.

This was an attempt to enlarge the name options. **It should be noted that there was a disagreement between DOJ and some county counsels regarding the interpretation and intent of this bill.

- A. The following is the surname part of Shannon O’Fallon, Senior Assistant Attorney General, verbatim interpretation of SB 406:

“SURNAMES

The examples the instructions give are based on a:

Bride’s name at birth of Maria (first) Sanchez Garcia (surname is Sanchez Garcia)

Pre-marriage name of Maria (first) Alejandra (middle) Sanchez Garcia (surname)***is used in place of a middle name.

Her new husband’s name is Miguel (first) Sergio (middle) Jimenez Gonzales (surname).

Last names permitted under the statute:

-can be retained, ORS 106.220(1)(a): Maria****Sanchez Garcia.

-can be changed to the surname of the other party, ORS 106.220(1)(b): Maria****Jimenez Gonzalez.

-can be changed to a *combination* of one or more of the surnames, or names within surnames, of either or both parties, with or without a hyphen, ORS 106.220(1)(c). While the use of “combination” and “one” are confusing since you cannot have a combination of one, the intent was to permit a combination of the surnames of the parties and not to permit a party to change a surname to only one of the names within a surname of the other party. It is not a combination if the bride drops her surname and only takes part of the surname of her husband: Maria ****Sanchez Jimenez Garcia, Maria****Garcia Jimenez Gonzalez,

Maria****Garcia Gonzales (you get the picture – the surnames have to have part or all of her name and part or all of his name).

-ORS 106.220(1)(d) only applies to middle names.

-Can be changed to the other party's surname, ORS 106.220(1)(e):
Maria****Jimenez Gonzales.

You cannot mix and match subsections in the statute. DOJ's interpretation is that you have to pick one of the subsections. So, you cannot have any combination of middle and surnames of yourself and your spouse/domestic partner.

Again, with regard to (1)(c), you can have a combination that uses one or more of your surnames along with one or more of your spouse's/domestic partner's surnames, but it does not mean you get to drop your name and take only one of your partner's surnames.”

- B. In an email sent to County Clerks from Jennifer Woodward (Vital Records) Sept 7, 2013, it stated in part: “Due to resource limitations, I will not be able to ask the Department of Justice to provide legal review beyond what was already provided. Going forward, you will need to rely on your county counsel's interpretation of the different name change options and use the options provided by CHS as guidance. I understand that counties may have different interpretations (emphasis added).”

Effective September 9, 2013, CHS will no longer be comparing the name changes with a list. However, we may require clarification from you when the name changes are obviously not within the scope of the law. (For example, changing first names or making up new middle and/or surnames.) In these cases, we may ask to receive a confirmation letter from your county counsel indicating that after legal review, they believe the name is within the SB 406 options. We will then have documentation supporting the name change.”

- C. And in the October 2013 Matter of Record publication (Public Health Division-Center for Public Health Practice-Center for Health Statistics publication, it stated in part: “Recently the State Registrar sent a letter to all clerks with an update. Effective September 9, 2013, our staff will no longer be reviewing names taken after marriage or ORDP. It will be up to you to determine if the name(s) fall within the law. We may request that your legal counsel support any name changes that appear to be clearly outside of our reading of this law.....”

The County Counsel in Malheur County agreed with the DOJ's interpretation of SB 406 and advised me to follow the law as written. As a matter of public policy, all counties should be consistent and not have different interpretations as noted by Jennifer Woodward above.

FYI.....

In 2013 Malheur County issued a total of 275 licenses of which 140 (51%) had double surnames. In 2014 Malheur County issued a total of 323 licenses of which 133 (41%) had double surnames.

That is why I made a request to Representative Bentz that words be added to the law to allow persons with double surnames to be able to drop one of the names and simply take one surname or a combination of one or more of the surnames.

**Respectfully submitted,
Deborah R. DeLong,
Malheur County Clerk**