

# **KNOW YOUR RIGHTS – KANSAS NAME CHANGES**

## **1. All Kansans—including minors—have the right to change their name.**

Kansas’ name change statute states that Kansas district courts “shall have the authority to change the name of any person . . . .”<sup>1</sup> The Kansas Court of Appeals found that “any person” includes minors, who have the right to change their legal name under Kan. Stat. Ann. § 16-1402.<sup>2</sup> As long as the judge hearing a name change case believes the petitioner is telling the truth, and does not seek to defraud anyone, the judge *must* grant the name change.<sup>3</sup>

## **2. Kansans do not have to have an attorney represent them in name change proceedings.**

Kansas’ name change laws do not require a person to have an attorney draft, sign, or file the forms on their behalf.<sup>4</sup> The law does not require an attorney to represent you in court for a name change hearing.<sup>5</sup> You can petition to change your name *pro se*—on your own.

In fact, *pro se* name changes are a common practice in Kansas: the Kansas Judicial Council<sup>6</sup> and Kansas Legal Services<sup>7</sup> provide name change forms for people who want to petition for a name change without hiring an attorney. The Kansas Judicial Branch website provides support for people who choose to represent themselves in Kansas courts,<sup>8</sup> and similar self-help centers exist in courthouses across Kansas.<sup>9</sup> Kansas custom welcomes self-representation in legal matters like name changes.

## **3. Minors must have an adult file their name change petition on their behalf.**

While anyone has the right to change their name, minors cannot petition for a name change by themselves; they must have an adult file the petition on their behalf, as their “next friend.”<sup>10</sup> A parent or guardian should serve as the “next friend.” All a parent must do is list themselves on the name change documents as the minor’s “next friend,” sign those documents, and include a consent form agreeing to act as the minor’s “next friend.” They should also appear at the name change hearing with the minor. The attached documents provide examples of this.

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<sup>1</sup> Kan. Stat. Ann. § 60-1401.

<sup>2</sup> *In re Morehead*, 10 Kan. App. 2d 625, 626 (1985) (“A minor may file a petition, through a next friend, to obtain a name change and there is no legal impediment to a grant of the requested change.”).

<sup>3</sup> If a judge is “satisfied with the truth of the allegation of the petition, and that there is reasonable cause for changing the name of the petitioner, the judge shall so order” the name change. Kan. Stat. Ann. § 60-1402(c).

<sup>4</sup> Kan. Stat. Ann. §§ 60-1401 et. seq.

<sup>5</sup> *Id.*

<sup>6</sup> <https://www.kansasjudicialcouncil.org/legal-forms/adult-name-change>

<sup>7</sup> <https://www.kansaslegalservices.org/node/216/kansas-name-change>

<sup>8</sup> <https://www.kscourts.org/Public/Find-a-Form>

<sup>9</sup> <https://www.kansaslegalservices.org/node/1893/no-lawyer-johnson-county-court-has-self-help-center>;

<https://www.kansaslegalservices.org/node/2306/legal-self-help-center-open-wyandotte-county-district-courthouse>.

<sup>10</sup> *In re Morehead*, 10 Kan. App. 2d 625, 626 (1985) (“A minor may file a petition, through a next friend, to obtain a name change and there is no legal impediment to a grant of the requested change.”).

#### **4. All Kansans have a Constitutional right to access the court system—courts cannot turn you away based on your identity, or the fact that you do not have an attorney.**

The Fourteenth Amendment to the United States Constitution gives everyone the right to access the court system.<sup>11</sup> Under Kansas law, courts cannot stop you from attempting to file paperwork with the court unless your filings are abusive, meritless, or frivolous.<sup>12</sup> Kansas courts cannot turn you away based on the fact that you do not have an attorney representing you.<sup>13</sup>

#### **5. Courts should not appoint guardian *ad litem* for minor name change proceedings that aren't part of a custody or divorce case.**

A guardian *ad litem* is a court-appointed attorney who advocates for minor children in certain legal proceedings.<sup>14</sup> They are independent, third-party attorneys who “appear for and represent the best interests of the child.”<sup>15</sup> Courts may appoint guardians *ad litem* “to protect a minor or incapacitated person who is unrepresented in an action.”<sup>16</sup> Guardians *ad litem* often appear in divorce, custody, and guardianship proceedings.

Historically, Kansas courts have only appointed guardians *ad litem* in name change cases when a child's name is being changed due to a divorce or custody dispute.<sup>17</sup> There is no precedent requiring or allowing a court to appoint a guardian *ad litem* in name change cases where the child and both parents consent to the name change. If a child has consent from both of their parents (or one parent, if the child has only one legal parent), and that parent serves as the child's “next friend” in the name change case, there is no need for the court to appoint a guardian *ad litem*.

#### **6. If you have questions or have faced challenges filing your pro se name change, there are resources in the state to help you.**

If you are interested in free legal support for your name change, you can contact **Kansas Legal Services** at **1-800-723-6953** or at <https://www.kansaslegalservices.org>, or the **Douglas County Legal Aid Society** at **785-864-5564**.

If someone is preventing you from filing a name change, or you think you are being discriminated against in the name change process, you can contact the **ACLU of Kansas** at [https://action.aclu.org/legal-intake/ks\\_legal\\_intake](https://action.aclu.org/legal-intake/ks_legal_intake) or [legal@aclukansas.org](mailto:legal@aclukansas.org).

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<sup>11</sup> *Bounds v. Smith*, 430 U.S. 817 (1977); *Holt v. State*, 290 Kan. 491, 500, 232 P.3d 848 (2010).

<sup>12</sup> *Holt v. State*, 290 Kan. at 497.

<sup>13</sup> In an unpublished opinion, the Kansas Court of Appeals found that the Fourteenth Amendment also restricts Kansas courts from barring litigants from *pro se* filings. *Lynn v. Anstaett*, No. 108,568, 2013 WL 5422344, at \*9–10 (Kan. Ct. App. Sept. 27, 2013) (“We reverse and vacate the order prohibiting all pro se filings as being too restrictive.”).

<sup>14</sup> Kan. Stat. Ann. 38-2205(a).

<sup>15</sup> Kan. Stat. Ann. 38-2205(a).

<sup>16</sup> Kan. Stat. Ann. 60-217.(c)(2).

<sup>17</sup> While Kansas case law includes a few examples of a guardian *ad litem* being appointed in minor name change proceedings, these are all divorce or custody cases brought under the Kansas Parentage Act—not under the name change statute. *See, e.g., In re Denning*, 2009 Kan. App. Unpub. LEXIS 173, at \*2–3 (Kan. Ct. App. Jan. 9, 2009).