

# HELLO

my name ~~is~~ was

## WHAT'S IN A NAME: NAME CHANGES AND THE LAW

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**Introduction:** “In the absence of any restrictive statute,” the courts have held, “it is the common-law right of a person to change his name, or he may by general usage or habit acquire a name notwithstanding it differs from the one given him in infancy. A man’s name for all practical and legal purposes is the name by which he is known and called in the community where he lives and is best known.” But names were changed, often formally and officially. So we need to know why names were changed, and how those changes might be recorded. These are the challenges for the genealogist chasing those name changes.

### A BRIEF HISTORY OF NAMES

Surnames were originally adopted to distinguish between two people of the same name. They were drawn from characteristics unique to the person at the time, and later were passed from generation to generation as inherited surnames. Some surnames were patronymic: identifying a person as the child of the father. John Watson would be John, son of Wat. Richard’s son Will would be Will Richardson. Others were locative, indicating where the person was from. Examples include surnames like Atwood and Underhill. Others indicated occupation or status: Smith, Baker, Carter, and Taylor, are a few examples. Some were descriptive, such as Joy or Child. In England, surnames tended to be fixed and inherited by roughly 1400, and the introduction of parish registers in 1538 advanced the process.

In some countries and cultures, surnames were not fixed and inherited until quite recently. In Denmark, for example, fixed surnames were not adopted until 1800s. In Norway and Sweden, inherited surnames were not required by law until the 20th century.

In the Netherlands, the advent of civil registration (1795-1811) compelled residents to choose a single fixed family name; before then, many Dutch took the names of the farms on which they lived—a common practice in parts of Germany and Norway as well. Ashkenazi Jewish residents of Europe may not have settled on a fixed surname until compelled to do so, as late as 1844 in Russia. In the United States, those enslaved often did not have or choose surnames until emancipated at the end of slavery. By contrast, surnames were standardized in China as far back as 2852 BC.

Once surnames were generally settled, it didn't mean that members of those families all kept those names forever. To the contrary, people often changed their names, and they did so for a variety of reasons and in a variety of ways that can often make tracing a family more difficult.

## **NAME CHANGES AND THE LAW**

Historically, changing one's name required nothing more formal than a person's choice to begin using another name. As long as the intent of the name change was not to defraud, any person could simply choose any name and by use alone make it his or her legal name. By the 20th century, however, changing one's name generally required some legal action on the part of the state to ratify the name change for legal purposes. Although the common law right to take on a different name hasn't been abandoned as a matter of law except in a few states, most states began requiring action to confirm a name change in the late 19th century or early 20th century. Today, as a matter of practicality, making a name change effective for all legal purposes requires the use of the procedures established in all 50 states and the District of Columbia for either judicial or, in Hawaii only, executive review.

Statutes for name changes have historically required notice, usually through the local newspaper, with an opportunity for others to object. Those seeking a name change had to provide their current name and often some personal history. Early statutes rarely asked why the person wanted the name change; some modern statutes require a reason deemed acceptable, while others require approval unless there is a specific reason to deny it.

Married women had a tougher time with name changes: in general, until the 1960s, they were not allowed to use any name other than that of their husband. Taking a temporary or stage name was not disallowed.

Rules in other countries may be very different. For example, since 1794 French law has provided that legal names are birth names only.

## **WHY NAMES WERE CHANGED**

Immigrants and others had a wide variety of reasons for wanting to change their names, from the very personal to the very pecuniary. Looking for example at the petitions for name changes filed in New York City in the middle of the 19th century, the reasons included:

- ◆ Having a name that was hard to pronounce or spell
- ◆ Having a name readily identifiable as Jewish
- ◆ Wanting to resume a maiden name after divorce
- ◆ Not wanting to carry the name of a father who had abandoned the petitioner
- ◆ Wanting a name unique in the business or trade
- ◆ Being offered an inheritance if a specific name was used
- ◆ Having a name associated with a specific ethnic group that would subject the petitioner to discrimination
- ◆ Having a relative who had disgraced the family name
- ◆ Being sorry that the petitioner had ever changed his name from his birth name.

## HOW NAMES WERE CHANGED

There were at least three major formal ways in which names were changed under the law, above and beyond the simple common law procedure of adopting and using a new name:

- ◆ A petition to the legislature for a name change. In many cases, these petitions were brought in connection with the legitimation of a child born out of wedlock but later acknowledged to be the child of the petitioner. The legislative act granting the name change also rendered the child capable of inheriting from the parent as if the child had been born in wedlock. The petitions and private acts passed are part of the legislative record of the state where the name change occurred.
- ◆ A petition to a court for a name change. Once statutory authority to change names was given to the courts, petitions for name changes were routinely made to courts. The statutes often required a reason for a change and barred changes to names that were offensive or not readily recognizable as names. These are generally recorded in court minute books or in separate volumes kept for that purpose.
- ◆ A name change as part of and in connection with naturalization. Starting with the immigration law of 1906 through to today, immigrants seeking naturalization have been asked whether they wanted a name change as part of the naturalization process. If the answer was yes, it'd be done by the court as part of the naturalization.

And one big statement of how names were ***not*** changed:

**NOT**  
**YOUR FAMILY NAME WAS ^ CHANGED AT ELLIS ISLAND.**

That one is a total myth. Immigrants leaving Europe had their names recorded in Europe by shipping company personnel who could read and write many languages. Those lists, recorded in Europe, went with the ship, and immigrants were checked against those lists. The resource list is chock full of articles that establish, definitively, that no, your family name was not changed at Ellis Island. Really.

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