



NEW JERSEY STATE BAR ASSOCIATION

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December 11, 2017

Honorable Glenn A. Grant, J.A.D.
Acting Administrative Director of the Courts
Attn: Comments on Filing Particular Categories of Cases
Hughes Justice Complex
P.O. Box 037
Trenton, NJ 08625-0037

Re: Comments on Recommendations to Implement Policies Regarding
Filing of Particular Categories of Cases

Dear Judge Grant:

Thank you for extending the time for the New Jersey State Bar Association (NJSBA) to submit comments on the above referenced report. The NJSBA welcomes and appreciates the opportunity to participate in the rule-making process, and for the Court's consideration of the NJSBA's views.

The NJSBA commends the Working Group on the Clarification of Divisions for its thoughtfulness in proposing comprehensive clarifications about which court divisions are best suited to hear particular categories of cases that have sometimes been heard in different divisions.

The NJSBA agrees with most of the Working Group's recommendations. Our members have concerns, though, with the recommendations concerning actions for a minor child's name change. In particular, we draw your attention to the Working Group's recommendation that Rule 4:72 be amended to require all name changes for minors to be heard in the Family Part. This diverges from allowing name changes not affiliated with Family Part actions to continue to be heard in the Law Division, where they have been handled without incident for years.

The NJSBA is concerned about an additional burden, and potential anguish, being placed on families where the parents consent to the name change of their child because they would have to meet the Family Part's "best interest of the child" standard. Just as parents are free to name their child at birth without undergoing a "best interest" analysis, consenting parents should be free to rename their child without extensive evaluation, so long as it is not for fraudulent or deceitful purposes.

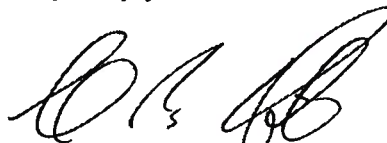
The issue is heightened for parents of transgender minors seeking to change their names, because requiring a “best interest” showing could result in very personal, sometimes painful and embarrassing information being provided to the judge. The recent case of Sacklow v. Betts, 450 N.J. Super. 425 (Law Div. 2017), illustrates the potential hurdles consenting parents of transgender minors would face in meeting a “best interest” standard applied in the Family Part. There, the court established a special evaluation process to be utilized when considering a name change for a transgender child. That process includes making an inquiry into any potential anxiety, embarrassment or discomfort that may result from having a name the child does not believe matches his or her outward appearance and gender identity; any medical or mental health counseling the child has received; and the child's preference and motivations for seeking the name change. These standards essentially require parents to submit proof that their child is, indeed, transgender before a name change application can be approved.

In addition, the cost to families to litigate a matter that is *uncontested* and, in the case of transgender parents, to expend significant financial resources to acquire medical experts, whose testimony may be necessary in a “best interest” context, cannot be ignored. This cost may prevent low- or lower-income parents from using the court system and obtaining a name change that may be vital to their child's physical and emotional health.

In light of the above, the NJSBA recommends that the Court not implement the recommendation to require all name change applications for minors to be heard in the Family Part. Rather, the NJSBA recommends where there is parental consent that the court recognize parental autonomy and continue to allow such applications to be heard in the Law Division, as with any other name-change application that does not implicate an existing Family Part matter.

Again, the NJSBA commends the Working Group for its thoughtful analysis, and thanks the Supreme Court for allowing the association to submit comments. The opportunity to participate in matters that have a significant impact on the practice of law and on the clients of our members is deeply appreciated. If you have any questions regarding these recommendations, please do not hesitate to contact me.

Very truly yours.

A handwritten signature in black ink, appearing to read 'R. B. Hille', written in a cursive style.

Robert B. Hille, Esq.
President

/sab

cc: John E. Keefe Jr., Esq., NJSBA President-Elect
Angela C. Scheck, NJSBA Executive Director