

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The object of this Bill is to amend the Births, Deaths and Marriages Registration Act 1995 (the Principal Act):

- (a) to change the application criteria for the registration of a change of name, and
- (b) to place restrictions on the registration of a change of name, and
- (c) to require that an applicant for registration of a change of name disclose whether he or she has a criminal record, and
- (d) to facilitate access to change of name information on the Register by specified law enforcement and investigative agencies.

Outline of provisions

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on the date of assent.

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Births, Deaths and Marriages Registration Amendment (Change of Name) Bill 2009

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Schedule 1 Amendment of Births, Deaths and

Marriages Registration Act 1995 No 62

Schedule 1 [1] substitutes section 27 of the Principal Act to provide that an adult may apply for registration of a change of his or her name only if the applicant's birth is registered in New South Wales or, if the applicant was born overseas and his or her birth is not registered in Australia, the applicant has been resident in New South Wales for the period of 3 years immediately preceding the application.

Schedule 1 [2] amends section 28 of the Principal Act to provide that an application may be made for a change of a child's name only if the child's birth is registered in New South Wales or, if the child was born overseas and his or her birth is not registered in Australia, the child has been resident in New South Wales for the period of 3 years immediately preceding the application.

Schedule 1 [3] inserts proposed sections 29A–29C into the Principal Act.

Proposed section 29A states that the Registrar is to include a requirement in an application form for registration of a change of name that the applicant disclose whether or not he or she has been convicted of any specified offences or, if the application is made on behalf of a child, whether the child has been convicted of any specified offences. The provision of false or misleading information in this regard constitutes a separate offence against section 57 of the Principal Act with a maximum penalty of 100 penalty units or 2 years imprisonment or both.

Proposed section 29B prevents the Registrar from registering a change of name if the Registrar is aware that the applicant has already registered a change of name in Australia during the preceding 12 months or has already registered 3 or more changes of name in Australia.

Proposed section 29C specifies circumstances in which a change of name may be registered despite the restrictions imposed by the proposed amendments and gives the Registrar a discretion to register a change of name in certain circumstances.

The Registrar is given a discretion to register a change of a person's name despite the restriction that the person's birth must be registered in New South Wales if satisfied that an order has been made for the protection of the person or the person's children from domestic violence.

The Registrar is given a discretion to register a change of name despite the restrictions referred to in proposed section 29B and the restriction for persons born overseas and whose birth is not registered in Australia that they must be resident in New South Wales for the preceding 3 years if satisfied that registration is warranted and, in particular, is given a discretion to register a change of name if satisfied that the change of name is for the protection of the person concerned, the person's

children or anyone else associated with the person.

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Schedule 1 [4] amends section 30 of the Principal Act to enable the Registrar to require an applicant for a change of name to produce evidence to satisfy the Registrar that the Registrar should exercise his or her discretion under proposed section 29C to register the change of name.

Schedule 1 [5] inserts proposed section 46A into the Principal Act to enable the Registrar to give access to change of name information on the Register to the NSW Police Force and other specified law enforcement and investigative agencies. Access to the information is to be in accordance with a memorandum of understanding entered into by the Registrar and the head of the agency concerned. Currently, clause 8 (2) and (3) of the Births, Deaths and Marriages Registration Regulation 2006 provide for such a memorandum of understanding between the Commissioner of Police and the Registrar. Clause 8 (2) and (3) of that Regulation are to be repealed by Schedule 2 to the proposed Act.

Schedule 1 [6] and [7] amend Schedule 3 to the Principal Act to provide for savings and transitional matters.

Schedule 2 Amendment of Births, Deaths and
Marriages Registration Regulation 2006

Schedule 2 repeals clause 8 (2) and (3) of the Births, Deaths and Marriages Registration Regulation 2006 to remove provisions that will be covered by proposed section 46A of the Principal Act. (See Schedule 1 [5]).