The Law and Newborns' Personal Names in the United States

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A number of legal questions related to the naming of children whose parents are citizens of the United States are addressed: Must these children be given personal names? If so, do restrictions exist on what those names may be, or how soon after birth they must be given? Can a newborn's personal name, once recorded on a birth certificate, be legally changed without the intervention of a court? And, if such intervention is necessary, is it *pro forma* or could the court deny a proposed change, and if so on what grounds? The statutes and caselaw governing newborns' personal names are reviewed, the general conclusions being that the government and legal system have so far chosen to intervene very little in such matters (at least compared to the level of intervention in many other countries), and that when such laws exist at all they tend to be quite lenient.

I

On December 19, 1998, in a small town located in the midwestern United States, an expectant mother and father checked into the obstetrics ward of their local hospital. As they were settling into their assigned labor and delivery room, the nurse who would assist them through the birthing process introduced herself and, after gathering the necessary medical information, asked the obvious questions: Was this their first child? (Yes.) Did they know whether it was a boy or a girl? (Yes, it was a girl.) And then the question that the couple had come nearly to dread: What was to be their daughter's name? They explained almost apologetically that although they had searched long and hard through numerous in-print and on-line resources, they had not yet come up with a name that met all their criteria. They wanted something unique—not odd, but definitely outside the current trends; something that perhaps reflected a bit of their ethnic and/or family history; and something pleasant to the ear both phonologically and rhythmically.

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The nurse, herself a mother of four, understood their dilemma. Naming a child was a big step, after all, and one that should not be taken lightly. "Well," she reassured them, "you've still got a couple days to decide. This is Saturday, so the insurance company will probably want you discharged some time on Monday." But the nurse's tone was lost on the parents-to-be, who were trying to decipher the implied link between the date of discharge and the naming of their baby. Unsuccessful, they asked the question directly, and were told, yes, it was the nurse's understanding (and she had worked in this obstetrics ward more than 20 years) that parents were not allowed to take their child from the hospital until a complete name had been recorded on the birth certificate. That was the hospital's policy. That was the law.

The couple had not anticipated this wrinkle, and in fact began to wonder privately at the truth of what the nurse had told them. The mother-to-be had a background in law—indeed, at one time she had served as the city's prosecuting attorney—yet she was unfamiliar with any such statute. The very idea of the government preventing a couple from leaving the hospital with their as-yet-unnamed baby struck her as almost Orwellian. Still, she wondered. What if such a statute really existed, and she and her husband decided to challenge it? Would they and their child actually be detained? Would they eventually find themselves in a courtroom, charged with some misdemeanor offense, or worse? "Well," the father-to-be finally said, "maybe we should just use *Little Dove* [the couple's private nickname for the child] after all. Or we could put a generic *Mary* on the birth certificate, or even *Baby,* and then change it in a few weeks, after we decide what we really want. What about that?"

The question had been directed to his wife, but was answered by the nurse: "I don't think you could use *Baby*; that's not a real name. *Mary* would be okay, but then you'd have to go to court to change it, and what if the judge denies your petition? As for *Little Dove*, well, I'm not sure that would work either. It sounds like an Indian name, and you're not Indians." Thus surfaced a host of other issues. Must the name given to a child be a "real name"? If so, what exactly does that mean, and who decides whether a name is "real"? When a name is entered on a newborn's birth certificate, does that become the child's legal name until a court decrees otherwise? Could the court deny a petition for a name change, and if so on what grounds? And is there any legal or other sort of official proscription against using a name that is clearly outside one's own ethnic or socio-cultural history?

II

With the exception of the changing of one's personal name (Rennick 1965; Bander 1973), the several questions raised by the scenario just recounted appear never to have been discussed in any detail in the literature on onomastics. This is interesting as well as surprising, not least because personal names play such a fundamental role in the United States (as in most cultures throughout the world). They serve as our principle means of identification, of course, but may also influence others' perceptions of us (Garwood et al. 1983; Mehrabian 1997), bind us to our families (Algeo and Algeo 1983), and provide semiotic clues to our orientation toward certain cultural values and norms (Enninger 1985, 249). Moreover, they are a focal point of christening ceremonies in many religions and play a major role in other cultural rituals throughout most of our lives (including confirmation, graduation, adult baptism, marriage, and funeral services). All of this being the case, I will return to the questions asked in the introduction and offer answers based on the statutes and caselaw current in the United States as of March 1999.

Stipulating the date here is important: both statutory law and caselaw do change, and in the United States such changes (especially in caselaw) can occur quite rapidly. Although it is true that the statutes and judicial decisions which govern the giving of personal names are not likely to be substantively modified any time soon—such matters probably rank low on most legislators' lists of priorities, and are not typically the material of which landmark courtroom decisions are made—anyone contemplating any activity as the result of reading this essay should consult the relevant law(s). In any event, nothing in this essay is intended or should be construed as specific legal advice.

It is worth noting at the outset that on each of the questions posed here, as on the topic of given names in general, the federal government is silent: neither the Constitution nor the United States Code requires anyone living in the country even to have a given name (though there is often an implicit assumption that every person has one, as when the Internal Revenue Service, for example, requires that the "first name" of each dependent be listed on a taxpayer's federal return). The issue of personal names therefore falls to each state, possession, and the District of Columbia.[1]

Must a child born in the United States be given a personal name? If so, is there any restriction on how soon after birth it must be given?

The states, too, are generally silent on the topic of personal names, except for requiring that every living newborn be registered with the local Bureau of Vital Statistics (or equivalent agency) within a certain period of time following birth. This registration everywhere takes the form of a birth certificate, on which one piece of information asked for is the baby's first name. (The paperwork that leads to a birth certificate is usually initiated by the hospital or facility where the birth occurs, and differs from the medical document which the attending obstetrician or midwife is uniformly required by state law to file within 72 hours of the birth. This medical document, in all likelihood the form that the nurse featured in the introduction said would have to be filed before the child could leave the hospital, requires a variety of information concerning the health of the newborn, but not his or her personal name; the baby is identified merely as the son or daughter of its parents.) Alabama's statute (Code of Ala. 22-9A-7 [1998]) is typical:

> (a) A certificate of birth for each live birth which occurs in this state shall be filed with the Office of Vital Statistics, or as otherwise directed by the State Registrar, within five days after the birth, and shall be registered if it has been completed and filed in accordance with this section.

Notable here is that the certificate must be filed only in the case of a "live birth;" in fact, stillborn children are not required by any state to be thus registered. However, if a child dies immediately after birth, or during the birthing process but after its head has exited the birth canal, the certificate does need to be filed. (I mention this only because herein may lie an interesting cultural insight—though one I will not explore here—regarding the view people in the United States have of life, death, and personal names.)

The period of time following a birth during which a birth certificate must be filed varies from state to state (see Appendix): ten days is the limit cited most frequently, though the range is from three days, in Maryland, to one year, in Hawaii, Montana, and South Carolina. (These limits are for children born in the state of their parents' legal residence, and are adjusted both for children born out of state, as for example when their parents are living abroad temporarily, and for "foundlings," the legal term for newborns who are abandoned at birth and later discovered still alive). The question that arises in any case, however, is

What happens if that time limit is not met? Some births must occur far from any city or town, and probably are not attended by a physician or midwife or, in fact, anyone who knows what the law prescribes. Can a fine be imposed on such people, or are the parents perhaps guilty of some misdemeanor?

The answer, in a word, is no. Alabama's statutes (Code of Ala. 22-9A-9 [1998]) again provide the solution that has been adopted by approximately two-thirds of the states (the solution adopted by the other one-third will be discussed shortly):

> Any person born in the state whose birth has not been filed may have his or her birth registered by the State Registrar after complying with the requirements set forth below:
>
> (1) Certificates of birth filed after the time specified in Section 22-9A-7 but within one year from the date of birth shall be registered on the standard form of live-birth certificate in the manner prescribed in Section 22-9A-7. The certificate shall not be marked DELAYED REGISTRATION.... When the State Registrar has reasonable cause to question the adequacy of the registration, he or she may require additional evidence in support of the facts of birth.

It seems clear that any state requiring a birth certificate to be filed within a certain period of time but then also permitting a grace period such as the one described above has rendered the original statute meaningless. (Interestingly, several employees from each of the state Bureaus/Offices of Vital Statistics in Alabama, Kansas, and Wisconsin, all of which states I contacted more or less at random, disagreed with this statement, though none could say why it was incorrect [personal communication, 4 March 1999].) If the original deadline passes, a new one merely takes its place with no penalty other than the possible requirement of "additional evidence in support of the facts of birth"—which evidence, as we shall soon see, is minimal.

Like Alabama, the vast majority of states that have such a grace period opt for the extension of time to be one year, though the period ranges from six months, in Delaware, Kansas, Louisiana, Tennessee, and Vermont, to seven years, in Maine (see Appendix).[2] But again the obvious question arises: What happens if the new, extended period of time lapses without a first name being given or a birth certificate being filed?

The answer, again, at least legally, is (virtually) nothing: a new deadline is set, this time with the stipulation that the birth certificate be labeled "delayed" or "delayed registration," or that a special "delayed birth certificate" be filed (see Appendix; the word *virtually* appears here only because some states do not allow birth certificates stamped "delayed" to serve as *prima facie* evidence unless a court so declares). Nearly all states have such a statute, to be invoked should a certificate of birth not be filed within the period of time permitted by any other law (the consequences of not filing a certificate in the remaining states will be discussed below). Alabama's law can again serve as a typical example (Code of Ala. 22-9A-9 [1998]):

> (2) Certificates of birth filed after one year but within five years of the date of birth shall be registered on the form of live birth in use at the time of birth and the certificate shall be plainly marked DELAYED REGISTRATION. To be acceptable for filing, the certificate shall be signed by the physician or other person who attended the birth; or if the birth occurred in an institution, the person in charge of the institution may sign the certificate. If the physician or other person who attended the birth is not available, and the birth did not occur in an institution, the certificate may be signed by one of the parents, if a notarized statement is attached to the certificate giving the reason why the certificate cannot be signed by the attendant. Additional requirements for filing certificates of birth after one year but within five years shall be set by rules of the board.

The stipulation that these certificates be signed by "the physician or other person who attended the birth," "the person in charge of the institution [where the birth occurred]," or "one of the parents" is standard among all the states having a statute like this one. The "additional requirements" mentioned in the last sentence of the law never amount to anything more than the demand that notarized affidavits, signed by one or more people who can explain why the birth certificate was not filed earlier, accompany the application for the delayed certificate.

Finally, each state provides a last layer of protection for people who, for whatever reason, have not filed a birth certificate (or had one filed on their behalf) at any earlier time. Alabama's statute is again fairly standard (Code of Ala. 22-9A-9 [1998]):

> (3) Certificates of birth filed five years or more after the date of birth may be filed for living persons and shall be made on a delayed certificate of birth form prescribed by the State Registrar and shall show on their face

the date of the delayed registration. A summary statement of the evidence submitted in support of the delayed registration shall be endorsed on the certificate.

a. Any living person born in this state whose birth is not recorded in this state, or his or her parent, guardian, next of kin, or older person acting for the registrant and having personal knowledge of the facts of birth may request the registration of a delayed certificate of birth, subject to this section and instructions issued by the State Registrar.

The only hurdles in such situations, in spite of the ominous-sounding "subject to this section and instructions issued by the State Registrar," are minimal. Alabama's code, quoted below at some length, is typical (22-9A-9 [1998]):

b. Each delayed certificate of birth shall be signed and sworn to before an official authorized to administer oaths by the person whose birth is to be registered, if the person is 18 years of age or over and is competent to sign and swear to the accuracy of the facts stated in the certificate; otherwise, the certificate shall be signed and sworn to by [one of the parents of the registrant, the guardian of the registrant, the next of kin of the registrant, or any older person having personal knowledge of the facts of birth]...in [that]...order of priority....

.....

c. The minimum facts that shall be established by documentary evidence shall be...[the full name of the person at the time of birth;[3] the date of birth and place of birth; the full maiden name of the mother; and the full name of the father, except that if the mother was not married either at the time of conception or birth, the name of the father shall not be entered on the delayed certificate.]

d. To be acceptable for filing, the name of the registrant and the date and place of birth entered on a delayed certificate of birth shall be supported by at least three pieces of documentary evidence, only one of which may be an affidavit of personal knowledge. Facts of parentage shall be supported by at least one document which may be one of the documents described above other than an affidavit of personal knowledge....

e. Documents presented shall be from independent sources and shall be in the form of the original record or a duly certified copy or excerpt thereof from the custodian of the records or documents. All documents submitted in evidence, other than an affidavit of personal knowledge, shall have been established at least five years prior to the date of application or have been established prior to the tenth birthday of the applicant. An

> affidavit of personal knowledge, to be acceptable, shall be prepared by one of the parents, other relative, or any older person, and shall be signed before an official authorized to administer oaths. In all cases, the affiant shall be at least 10 years older than the applicant and have personal knowledge of the facts of birth.

If any of the evidence required by such statutes cannot be provided, or if it is deemed unacceptable, the states uniformly claim that "the State Registrar shall not register the delayed certificate of birth" (Code of Ala. 22-9A-9 [4] [1998]). But even then a person has recourse (Code of Ala. 22-9A-10 [1998]):

> (a) If a delayed certificate of birth is rejected under Section 22-9A-9, a petition signed and sworn to by the petitioner may be filed with a circuit court of any county in this state in which he or she resides or was born, for an order establishing a birth record.
>
> .....
>
> (b) The petition shall allege...[that the person for whom a delayed certificate of birth is sought was born in this state, that no certificate of birth can be found in the Office of Vital Statistics, that diligent efforts by the petitioner have failed to obtain the evidence required in accordance with Section 22-9A--9, that the State Registrar has refused to register a delayed certificate of birth, and other allegations as may be required.]
>
> (c) The petition shall be accompanied by a statement of the State Registrar made in accordance with Section 22-9A-9 and all documentary evidence which was submitted to the State Registrar in support of the registration.
>
> (d) The court shall fix a time and place for hearing the petition and shall give the State Registrar 10 days notice of the hearing. The State Registrar or the authorized representative of the State Registrar may appear and testify in the proceedings, or evidence may be received by affidavit.
>
> (e) If the court finds, from the evidence presented, that the person for whom a delayed certificate of birth is sought was born in this state, it shall make findings as to the place and date of birth, parentage, and other findings as may be required and shall issue an order to establish a certificate of birth....
>
> (f) The clerk of the court shall forward each order to the State Registrar not later than the tenth day of the calendar month following the month in which the order was entered. The order shall be registered by the State Registrar and shall constitute the authority for placing a delayed certificate of birth on file.

In short, any person born anywhere in the United States can acquire a birth certificate at any time during his or her life with minimal effort, which means there is no legal time limit on when a personal name must be given. Moreover, because no state punishes its citizens for *not* having a birth certificate (and it is probably true that many people living in remote places pass their entire lives without having one,[4] the only penalty being that these people have no *prima facie* evidence of their own existence), personal names are, in effect, not required. Indeed, one federal judge has opined that there is "no support for...[the] proposition [that] a newborn child has an interest in having its mother give it a name," and said further that the naming of a child is a parental "right," not an obligation (*Brill v. Hodges* at n. 1). Of course, this opinion is not binding outside the court's district, but it does provide an important precedent which, absent compelling circumstances to the contrary, other courts would probably follow.

Are there any legal restrictions on a newborn's personal name?

No state places restrictions on the names that a newborn may be given, though the question posed here is not a trivial one. Numerous countries, or often the provinces or states within them, have or have had such laws, which, because they are so frequently based on socio-cultural and/or religious beliefs, can be quite rigid. The Civil Code of Quebec, for example, requires the Civil Law Director to prevent parents from giving their children any first or middle name (or compound surname) that is "odd" and that might consequently "invite ridicule" or "discredit" the child ("Moniker 'Ivory' Making Waves," 1998). Thus in the fall of 1997 the Director rejected the Portuguese *Tomás* simply because the acute accent mark "did not conform to the French language." The child's parents, Michel Gagnon (a francophone Quebecer) and Eliana de Mattos Pinto Coelho (originally from Brazil), had wanted their son's full name, Tomás Gagnon, to reflect both of their ethnic origins, and early in 1998 a Quebec Superior Court agreed that it could: the Director's objections were therefore dismissed, and the name was reinstated, acute accent and all ("What's in a Name?" 1998). The Civil Law Director typically challenges only about 20 of the approximately 85,000 names bestowed in any given year ("Baby Ivory Gets Parents into Tiff with Officialdom," 1998), though he and his staff have objected to as many as 300 (Woodcock 1998), including *Spatule*, *Golderak*, *Cowboy*, the above-mentioned *Ivory*, *Peepee*, and *C'est-un-Ange* ('She's an Angel').

British Columbia has legislation virtually identical to Quebec's (the government has disallowed, among other first names, *God*; see "Baby Ivory Gets Parents into Tiff with Officialdom," 1998), and Sweden's Name Law, which is administered by the Name Bureau within the Patent and Registration Office, regulates the giving of first names in that country (Namnlagsutredningen 1979; for the laws governing personal names more generally throughout Scandinavia, see volume 13 of *Studia Anthroponymica Scandinavica* [1995]). In France the equivalent law is specifically intended to protect children from potentially "harmful" names, which are any the government may decide "look or sound ridiculous, belittling, or vulgar," or "are awkward to bear because they are complex or relate to a historical figure of ill repute," or "are purely fanciful" (Willingham-McLain 1997, 197). And in Tanzania the government regulates even the names people give their pets: Anatory Chizu was handed a suspended six-month jail sentence and forced to kill his own dog merely because he had named the animal *Immigration* (because the name was said to bring "ridicule and contempt" to the government Immigration Department and its employees, a ruling that was later overturned by the country's chief justice—but not before the dog had been put to death; see Bald 1998).

In the United States, however, no such laws exist. Thus parents are free to name their children in a way consistent with their ethnic history, as when the Nigerian couple living in Texas announced that they would call their new octuplets *Chukwuebuka Nkemjika*, *Chidinma Anulika*, *Chinecherem Nwabugwu*, *Chimaijem Otito*, *Chijindu Chidera*, *Chukwubuikem Maduabuchi*, *Chijioke Chinedum*, and *Chinagorom Chidiebere* ("Octuplets Are Named in Nigerian Tradition," 1998). Or they can cross the culturally-established onomastic boundary that so often separates male from female, as when a father named his son *Sue* to memorialize Sue's mother, who had died in childbirth ("A Man Named Sue Is Dead at 84...," 1980; Sue was himself later memorialized by Johnny Cash's song "A Boy Named Sue"). Or they can even turn a number into a name, as when singer Erykah Badu named her son *Seven* (because "it's a divine number that can't be divided;" see Kinnon 1998, but cf. also Lockney and Ames 1981).

Again, parents are free to adapt the name of a season, a day of the week, a month, a natural feature, an element of weather, or a toponym, as in *Summer*, *Autumn*, *Tuesday*, *January*, *April*, *May*, *June*, *August*, *Skye*, *Rain*, *Rock*, *Stone*, *Cheyenne*, *Cody*, *Madison*, and *Wynona*, to

name only a few (see Gerston 1997). Or, finally, they can create names, as when David Bowie named his son *Zowie*, and Frank Zappa named his daughter *Moon Unit* and his son *Dweezil* (the countercultural movement of the 1960s and early 1970s also spawned such interesting names as *Neve* [Campbell], *Jada* [Pinkett], *Ving* [Rhames], *Uma* [Thurman], and *Charlize* [Theron]; see Gerston 1997). Of course a personal name may not always be recorded on a birth certificate as parents intend, as we shall soon see, but the freedom of original choice undoubtedly exists, and that freedom has been supported by the opinion of at least one court: Slovenko (1984, 107) cites a case in which the judge proclaimed that in the United States parents have the right to give their child any name they wish.[5]

Can the personal name of a newborn, once recorded on a birth certificate, be legally changed without the intervention of a court?

When the birth certificate of the well-known linguist and political philosopher Noam Chomsky crossed the desk of the registrar of births in Philadelphia back in 1928, that registrar, evidently not recognizing either the first name, *Avram*, or the second name, *Noam*, that Mr. and Mrs. Chomsky had chosen for their son—indeed, not even recognizing that they were intended for a male rather than a female—and apparently believing that a mistake had been made, replaced them with *Naomi* (Davies 1996). Of course the certificate could have been left unchanged, since in the United States an individual's given name is whatever that person calls him- or herself, and the Chomsky family certainly would have continued using *Avram* or *Noam*; but then there would have been no *prima facie* evidence of the boy's existence. How would he be able to enroll for school, obtain a passport, and the like?

The vast majority of states address such situations by allowing birth certificates to be amended without court intervention. Alabama's statute is again typical (Code of Ala. 22-9A-19 [1998]):

> (b) A certificate that is amended under this section shall be marked AMENDED except as otherwise provided.... Additions or minor corrections may be made to certificates within one year after the date of the event without the certificate being marked AMENDED. The board shall prescribe by rules the conditions under which additions or minor corrections may be made.

The "[a]dditions or minor corrections" mentioned here and throughout the states' laws refer to spelling and typographical errors (such as, in

the latter case, the inadvertent substitution of a lowercase for an uppercase letter, and vice versa), and to obvious errors of fact (such as when the gender of a child is misrecorded, or when names like *Avram Noam* are wrongly recorded as *Naomi*). The "rules" mentioned in the last sentence, as we shall see, typically amount to nothing more than both parents (or the mother alone, if unwed; or either parent alone, if the other is incapacitated or dead) coming forward to request in writing that the changes be made.

The vast majority of states also have additional statutes governing the amendment of birth certificates specifically. Alabama's law again serves as a common example (Code of Ala. 22-9A-19 [1998]):

> (2) Until the first birthday of the child, given names may be amended upon affidavit of both parents, or the mother in the case of a child born out of wedlock, or the father in the case of the death or incapacity of the mother, or the mother in the case of the death or incapacity of the father, or the guardian or agency having legal custody of the registrant. The certificate shall be marked AMENDED. After one year from the date of birth, the provisions of subdivision (c)(3) of this section shall be followed.

Some states, such as Florida, stipulate that the birth certificate will not be labeled "amended" (or "altered") in the case of any changes made in the first year, and others, such as Ohio and Wisconsin, stipulate that only one change can be made without the certificate being labeled "amended" (see Appendix). And as with delayed certificates, some states do not allow any amended birth certificate to serve as *prima facie* evidence unless a court so declares.

A very few states—Alabama, California, Florida, New Jersey, New York, and Pennsylvania—permit birth certificates to be filed with no personal name recorded; then, within a stipulated number of months or years, the name can be filled in without the certificate being labeled "amended." Alabama's statute reads as follows (Code of Ala. 22-9A-19 [1998]):

> (1) Until the fifth birthday of the registrant, given names for a child whose birth was recorded without given names may be added to the certificate upon affidavit of both parents, or the mother in the case of a child born out of wedlock, or the father in the case of the death or incapacity of the mother, or the mother in the case of the death or incapacity of the father, or the guardian or agency having legal custody of the registrant. The certificate shall not be marked AMENDED.

And although every state allows its Registrar (or equivalent person) to deny a petition for the amendment of a certificate if the applicant does not submit whatever minimal documentation is required, or if the Registrar has reasonable cause to question the reasonableness or validity of that documentation, the applicant has the option of either correcting the deficiencies or, as a last resort, petitioning a court for the amendment. Alabama's language again (Code of Ala. 22-9A-19 [1998]):

> (3) Upon receipt of a certified copy of an order from a court with competent jurisdiction changing the name of a person born in this state, the State Registrar shall amend the certificate of birth to show the new name.

Unlike Alabama, some states stipulate that an entirely new birth certificate be created, though in either case the person's name is legally changed (and because the change was decreed by a court, the new or amended certificate does serve as *prima facie* evidence of the person's existence).

The answer to the question posed at the beginning of this section, then, is yes, in most states a name can be changed without a court order simply by amending the birth certificate containing the name in question (see Appendix). If any problem should be encountered in the process of amendment, however, or in those few states that have no such explicit process, the courts can always be used as a last resort.

I should perhaps note, too, that all the states take a dim view of any person who amends a birth certificate without going through the appropriate channels, whatever those channels may be. Such illegal tampering is usually classified as a misdemeanor offense (though in New Hampshire and a few other states it is a class B felony) and is punishable with a fine of usually between $500 and $1,000 (in South Carolina the maximum is $5,000) and/or a jail sentence of usually between six months and one year (again, in South Carolina the maximum is two years).

If intervention by a court is necessary to change a newborn's personal name, is that intervention pro forma or could the court deny a proposed change and, if so, on what grounds?

I have been unable to locate in the court records of any state even one instance of a judge denying a petition for the change of a child's first name, assuming that the minimal evidence required was presented

in good order and that none of the parties involved (the child and his or her parent[s] or guardian[s]) objected to the proposed change. Of course, in such cases a judge always *could* deny the petition—that is, he or she would have the power to do so—but one has to wonder on what grounds such denial would be rendered (see n. 5, however).

The argument could be advanced that the proposed name might strike the judge as so odd that he or she would deny the petition simply for the good of all the parties involved, but so far this appears not to have happened. And with the existence of personal names such as those discussed above (*Zowie*, *Dweezil*, and the like), such a denial seems unlikely any time soon. Indeed, just one example of a child's name being changed to something rather bizarre occurred in Santa Barbara County, California, in 1994, when a 17-year-old boy, with his parents' support, was allowed by a judge to drop *Peter Eastman, Jr.* and adopt *Trout Fishing in America* (Torsches 1994; the boy's new personal name, presumably, is *Trout*), the title of a book the boy had read and evidently been quite impressed with.

Legal precedents such as this one are powerful, and made all the more so by the precedents of adults who are allowed to change their entire names in ways that are just as idiosyncratic. Perhaps the best-known such change was when a singer named Prince legally changed his name to a symbol, forcing the oral media to refer to him as The Artist Formerly Known as Prince (see, however, Lockney and Ames 1981, which reviews the interesting case of a man who was not allowed to change his name to the number *1069*). But other instances—less well-publicized, perhaps, but no less compelling as legal precedents—exist as well, as when a Fresno County (California) Superior Court allowed Terril Clark Williams to change his name to *God* in 1981. The judge evidently wasted no time in granting the change of names, advising the man only that "this could be counterproductive to your life" (Foster 1999).

The shortest answer to the question posed in this section, then, is that any court intervention necessary to change a newborn's personal name is (and will almost certainly remain), for all intents and purposes, *pro forma*.

III

Thus the couple featured in the introduction to this essay really had nothing to fear. No law could have prevented them from giving their

child the name *Little Dove* (or *Baby* or, in fact, any name they might have chosen). No law could have prevented them from taking their unnamed child from the hospital, or maintaining that nameless status until such time as *prima facie* evidence of her existence became necessary. No law could have prevented them from legally changing their child's name. And if they had decided to change the child's name and a court's intervention became necessary, it is highly unlikely that any judge would have denied any proposed substitute.

As luck would have it, however, none of these questions became an issue. On the second day following the child's birth the new parents decided, first independently and then together, to call her *Ciara* (key-ARE-a) *Danielle*—the whole being pleasant to the ear rhythmically and phonologically (particularly with the surname they chose, *Ross-Murray*[6]), the second name incorporating a bit of family history, and the first (with which the parents were especially pleased) being unique but not odd. The parents did wonder why, among all their friends and relatives, it was only the children who could duplicate the intended pronunciation of *Ciara*—adults uniformly mispronounced it *key-AIR-a* or *sea-AIR-a*—but the afterglow of the new birth and the rigors of parenthood soon caused them to dismiss the matter as nothing more than a trifling curiosity.

That curiosity was soon explained, however, and the uniqueness of *Ciara* called into question, when a visiting three-year-old, on being told the name, exclaimed, "Like in the movie!" and proceeded to explain that *Kyara* (different spelling, same pronunciation) is the name of a strong-minded, heroic lioness, Simba's daughter, in the film *Lion King II*. Further evidence of *Ciara*'s non-uniqueness appeared on 12 February 1999, when it turned up as the name of a minor character on the NBC television series *Providence*, and again when it appeared in the first sentence of (and throughout) an article published in the 16 February 1999 issue of *Family Circle* (Tunley 1999).

The parents of Ciara Danielle, then, are left with a name that they still very much like, but that is not nearly as unique as they had thought. In fact, they are all too well aware that if *Lion King II* should suddenly become especially popular among adults aged 20 to 40, their daughter could grow up in a generation as full of girls named *Ciara* (or *Kyara*, or any of a number of other orthographic variants, but all pronounced the same) as other generations have been full of girls named *Heather* or *Ashley* or *Caitlyn*. But while the name may be duplicated, of course the

person cannot be, and the parents take great comfort in knowing that whatever else happens, there will only ever be one Ciara Danielle Ross-Murray.

Appendix

To conserve space, the following method of reporting information is followed below: the first length of time following the name of a state means "a birth certificate must be filed within this time following the birth;" a second length of time, if one appears, means "a birth certificate may be filed within this time following the birth without being labeled 'delayed'." Regulations concerning delayed and/or amended certificates follow, other notes appearing as necessary. The language here is generally telegraphic: any span of time should be read to include "following the birth of the child;" "name" should be read "personal name;" and it should be understood that all certificates may be amended only at the petition of both parents, or the mother alone if unwed or the father is dead or incapacitated, or the father alone if the mother is dead or incapacitated. The italics are mine.

Alabama: Five days; one year. From one to five years, "delayed;" after five years, "delayed birth certificate." A certificate filed *without* a name may, for five years, have the name added without being labeled "amended." A certificate filed *with* a name may be amended in the first year (minor changes will not cause the certificate to be labeled "amended;" major changes, which can be made only *once*, *will* cause it to be labeled "amended"). After the first year, any amendment of a name may be made only by court order, and the certificate will be labeled "amended." See Code of Ala. 22-9A-7, 22-9A-9, 22-9A-10, and 22-9A-19 (1998).

Alaska: Five days; indefinitely, at the discretion of the Department of Vital Stats., "in cases in which compliance...would result in undue hardship." From one to 12 years, "delayed;" after 12 years, "delayed birth certificate." Minor changes may be made without a certificate being labeled "amended;" if amended by court order, it *will* be labeled "amended." See Alaska Stat. 18.50.160, 18.50.260, and 18.50.290 (1998).

Arizona: Seven days; indefinitely, at the discretion of the Department of Vital Stats., which decides "good cause exceptions" (all are "delayed birth certificates"). Minor changes may be made in the first year without the certificate being labeled "amended;" a certificate amended by court order *will* be labeled "amended." See A.R.S. 36-322, 36-324, and 36-338 (1998).

Arkansas: Ten days; one year. After one year, "delayed birth certificate." Minor changes may be made in the first year without the certificate being labeled "amended;" a certificate amended at any time by court order *will* be labeled "amended." See Ark. Stat. Ann. 20-18-307, 20-18-401, and 20-18-402 (1997).

California: Ten days. If a certificate is filed without a name, a "supplemental report" must be filed "as soon as the child is named." Any unregistered birth may be registered on a "delayed birth certificate," and any birth certificate

containing "facts [that] are not correctly stated" can be corrected at any time by affidavit. See Cal Health & Saf Code 102400, 102535, 103225, 103325, and 103330 (1999).

Colorado: Ten days; one year. Minor changes may be made without the certificate being labeled "amended;" a certificate amended by court order *will* be labeled "amended." See C.R.S. 25-2-112, 25-2-114, and 25-2-115 (1997).

Connecticut: Ten days; one year. Minor changes may be made in the first year without the certificate being labeled "amended;" a certificate amended by court order *will* be labeled "amended." See Conn. Gen. Stat. 7-48, 7-57, and 19a-42 (1997).

Delaware: Ten days; six months. Minor changes may be made in the first six months without the certificate being labeled "amended;" a certificate amended thereafter *will* be labeled "amended." See 16 Del. C. 3121 and 3131 (1998).

District of Columbia: Five days; one year. Minor changes may be made in the first year without the certificate being labeled "amended;" a certificate amended by court order *will* be labeled "amended." See D.C. Code 6-205, 6-207, and 6-217 1998.

Florida: Five days; one year. If a certificate is filed without a name, the local registrar "shall...require the completion of the missing items...if they can be obtained...." A certificate may be amended without a court order in the first year, and will not be labeled "amended;" a certificate amended at any time by court order *will* be labeled "amended." See Fla. Stat. 382.013 and 382.019 (1998).

Georgia: Ten days; one year. After one year, "delayed birth certificate." Minor changes may be made in the first year without the certificate being labeled "amended;" a certificate amended by court order *will* be "amended." See O.C.G.A. 31-10-9, 31-10-11, and 31-10-23 (1998).

Hawaii: One year. Minor changes may be made in the first year without the certificate being labeled "altered;" thereafter, a certificate *will* be labeled "amended." See HRS 338-16 (1998).

Idaho: Fifteen days; one year. Minor changes may be made in the first year without the certificate being labeled "amended;" a certificate amended by court order *will* be labeled "amended." See Idaho Code 39-250 and 39-255 (1998).

Illinois: Seven days; one year. From one to seven years, "delayed;" after seven years, "delayed birth certificate." Minor changes may be made in the first year without the certificate being labeled "amended;" a certificate amended by court order *will* be labeled "amended." See 410 ILCS 535/12 and 535/14 (1998).

Indiana: Five days; four years. Certificates may be amended only by court order, and will be labeled "amended." See Ind. Code Ann. 16-37-2-3 and 16-37-2-5 (1998).

Iowa: Seven days; one year. Minor changes may be made in the first year without the certificate being labeled "amended;" thereafter it *will* be labeled "amended." See Iowa Code 144.13 and 144.15 (1997).

Kansas: Five days; six months. Certificates may be amended only by court order, and will be labeled "amended." See K.S.A. 65-2409, 65-2420, and 38-1130 (1997).

Kentucky: Ten days; one year. After one year, "delayed birth certificate." Minor changes may be made in the first year without the certificate being labeled "amended;" a certificate amended by court order *will* be labeled "amended." See KRS 213.046, 213.056, and 213.121 (1996).

Louisiana: Fifteen days; indefinitely, at the discretion of the Department of Vital Stats. (if the certificate is filed with no name, it must be supplied later by affidavit). A certificate filed after six months must be labeled "delayed." Certificates may be amended only by court order, and will be labeled "amended." See La. R.S. 40:34, 40:44, and 40:60 (1998).

Maine: Seven days; seven years. After one year, "delayed birth certificate." Minor changes may be made in the first year without the certificate being labeled "amended;" a certificate amended thereafter *will* be labeled "amended." See 22 M.R.S. 2764 and 2705 (1997).

Maryland: Three days. The name may be changed once without a court order in the first year; all changes thereafter require a court order. Certificates will be labeled "amended" in either case. See Md. Code Ann. 4-208 and 4-214 (1998).

Massachusetts: Ten days; one year. Minor changes may be made in the first year; the certificate will be labeled "amended." A certificate amended by court order will also be labeled "amended." See Mass. Ann. Laws ch. 111, 24, and ch. 46, 13 (1998).

Michigan: Five days; one year. Minor changes may be made in the first year without the certificate being labeled "amended;" thereafter, changes may be made only be court order, and the certificate will be labeled "amended." See MSA 14.15 (2821, 2827, 2871, and 2873) (1998).

Minnesota: Five days; one year. Certificates may be amended only by court order, and only to correct errors; any amended certificate will result in a new certificate being issued. See Minn. Stat. 144.212, 144.215, and 144.218 (1998).

Mississippi: Five days; one year. Certificates may be amended only by court order. Mississippi is anomalous in that these time limits are not specified by statute; instead, they appear in *Rules Governing the Regulation of Vital Records and Statistics* (1998). However, for the statute governing amended certificates see Miss. Code Ann. 41-57-23.

Missouri: Seven days; one year. Certificates may be amended only by court order, and will be labeled "amended." See 193.085, 193.105, and 193.215 R.S.Mo. (1997).

Montana: One year. Certificates may be amended only by court order, and will be labeled "amended." See Mont. Code Anno. 50-15-204 and 50-15-221 (1998).

Nebraska: Five business days; one year. Certificates may be amended only by court order, and will be labeled "amended." See R.R.S. Neb. 71-604 and 71-617.03 (1998).

Nevada: Ten days (sooner in cities "if so required by municipal ordinance or regulation"); four years. Certificates may be amended only by court order, and will be labeled "amended." See Nev. Rev. Stat. Ann. 440.280, 440.620, and 440.630 (1997).

New Hampshire: Six days. Certificates may be amended only by court order, and will be labeled "amended." See R.S.A. 126:6(II) and (IV) (1998).

New Jersey: Five days. If a certificate is filed without a name, a "supplemental report" must be filed "as soon as the child shall have been named." Certificates may be amended only by court order, and the courts shall decide whether they are "amended." See N.J. Stat. 26:8-28 and 26:8-34 (1998).

New Mexico: Ten days; one year. Certificates may be amended only by court order, and will be labeled "amended." See N.M. Stat. Ann. 24-14-13 and 24-14-15 (1998).

New York: Five days. If a certificate is filed without a name, a "supplemental report" must be filed "as soon as the child shall have been named." Certificates may be amended only by court order. See NY CLS Pub Health 4130 and 4134 (1998), and NY CLS Civ R 61 and 63 (1998).

North Carolina: Ten days; one year. Certificates may be amended only by court order, and any amendment will result in a new certificate being issued. See N.C. Gen. Stat. 130A-101, 130A-104, and 130A-118 (1997).

North Dakota: Seven days; one year. Minor changes may be made in the first year without the certificate being labeled "amended;" any certificate amended at any time by court order, however, *will* be labeled "amended." See N.D. Cent. Code, 23-02.1-13 and 23-02.1-15 (1998).

Ohio: Ten days. Minor changes may be made *once* without a court order, and the certificate will not be labeled "amended;" thereafter, a certificate may be amended only by court order, and it *will* be labeled "amended." See ORC Ann. 3705.09 and 3705.22 (1998).

Oklahoma: Seven days; one year. Minor changes may be made in the first year without the certificate being labeled "amended;" any certificate amended by court order *will* be "amended." See 63 Okl. St. 1-311, 1-313, and 1-321 (1998).

Oregon: Five days; one year. Certificates may be amended only by court order, and will be labeled "amended." See ORS 432.140, 432.206, and 432.235 (1997).

Pennsylvania: Five days; one year. Any certificate filed *without* the name may, until the first birthday, have that name added without being labeled "amended;" thereafter, a certificate may be amended only by court order, and a new certificate will be issued. See 35 P.S. 322, 450.701, and 450.603 (1998).

Puerto Rico: Ten days. Certificates may be amended only by court order. See 24 L.P.R.A. 1131 (1992) and 1231 (1998).

Rhode Island: Four days; one year. Minor changes to any certificate may be made in the first year without the certificate being labeled "amended;" a certificate amended by court order *will* be "amended." See R.I. Gen. Laws 23-3-10, 23-3-12, and 23-3-21 (1998).

South Carolina: One year. Certificates may be amended in the first year without a court order and without being labeled "amended;" mistakes on certificates may be corrected at any time, but after the first year the certificates will be labeled "amended;" and other changes after the first year require "supporting affidavits of fact," and the certificates will be labeled "amended." See S.C. Code Ann. 44-63-150 (1998).

South Dakota: Seven days; one year. All changes are made at the discretion of the Secretary of Health, and all changes requiring a court order will result in certificates being labeled "amended." See S.D. Codified Laws 34-25-8 and 34-25-51 (1998).

Tennessee: Ten days; six months. Minor changes to any certificate may be made in the first year without it being labeled "amended;" any certificate amended by court order, however, *will* be labeled "amended" unless the change corrects a "factual inaccuracy." See Tenn. Code Ann. 68-3-30, 68-3-203, and 68-3-301 (1998).

Texas: Five days; one year ("evidence to substantiate the facts of the birth" and "a statement explaining the delay" may be required). From one to four years, "delayed;" after four years, "delayed birth certificate." Certificates may be completed or amended at any time, by petition. See Tex. Health and Safety Code 191.028, 192.023, and 192.024 (1999).

Utah: Ten days; one year. Certificates may be amended only by court order, and are *not* labeled "amended." See Utah Code Ann. 26-2-5 and 26-2-8 (1998).

Vermont: Ten days; six months. From six months to one year, "delayed;" after one year, "delayed birth certificate." "Obvious errors" may be corrected on birth certificates in the first six months without them being labeled "amended;" thereafter, certificates may be amended only by court order. See 18 V.S.A. 5071, 5073, and 5075 (1998).

Virginia: Seven days; one year. After one year, "delayed birth certificate." Minor changes may be made in the first year without the certificate being labeled "amended;" any certificate amended at any time by court order *will* be labeled "amended." See Va. Code Ann. 32.1-257, 32.1-259, and 32.1-269 (1998).

Virgin Islands: Ten days; thereafter, "delayed birth certificate." Certificates may be amended only by court order, and will be labeled "amended." See 19 V.I.C. 804 and 831 (1998).

Washington: Ten days; thereafter, "delayed birth certificate." Certificates may be amended only by court order, and will be labeled "amended." See Rev. Code Wash. 70.58.120 (1998).

West Virginia: Seven days; one year. Minor changes may be made in the first year without the certificate being labeled "amended." If amended by court order, it *will* be labeled "amended." See W. Va. Code 16-5-12, 16-5-24, and 16-15-14 (1999).

Wisconsin: Five days; indefinitely, but "evidence" and "an explanation of why the ...certificate was not filed [earlier]" may be required (two pieces of evidence before seven years, three pieces after). Certificates may be amended to correct errors *once* in the first year without evidence and without a court order; thereafter, evidence is needed. In both cases the certificates will be labeled "amended." See Wis. Stat. 69.11 and 69.14.

Wyoming: Ten days; one year. Minor changes may be made in the first year without the certificate being labeled "amended." If amended by court order, it *will* be labeled "amended." See Wyo. Stat. 35-1-410, 35-1-413, and 35-1-424 (1999).

Notes

1. I will need to refer to the states, possessions, and District of Columbia frequently in this essay, and to avoid the resultant wordiness will instead call them all "states."

2. Actually, four states—Alaska, Arizona, Louisiana, and Wisconsin—all appear to allow such changes indefinitely—at least the wording of their statutes does not mention a maximum time limit. But leaving those states aside for the moment, I must note that the seven-year limit in Maine raises the possibility of an interesting conflict, for another statute (20 M.R.S. 6002 [1997]) stipulates the following:

> 1.... Students who enroll for the first time in a public school shall provide their teachers with official records of birth within 60 days of enrollment.
>
> 2.... A. A parent or guardian of a student who enrolls shall provide that student with an official record of birth.
>
> 2.... B. A parent who refuses or unreasonably neglects to comply with paragraph A shall be fined not more than $5.

The "official record(s)" mentioned here refer to a certificate of birth, but what if no such certificate exists? Most students enrolling "for the first time in a public school" would be five or six years old, certainly well within the seven-year grace period that Maine allows for the filing of birth certificates. Would the parents of a six-year-old first-time student not having a birth certificate be fined? The remainder of the statute offers no answer to this question, and in fact sheds no real light on how the situation might be resolved:

> 3.... A. A teacher shall inform the superintendent of the school administrative unit of the name of any student who has not complied with subsection 1.
>
> B. A superintendent shall inform the State Registrar of Vital Statistics of the name of a student who has not complied with subsection 1 and the name and address of the parent of that student.
>
> C. The State Registrar of Vital Statistics shall file a complaint with the nearest District Court whenever the registrar believes that a parent has not complied with subsection 2.

> D. The State Registrar of Vital Statistics shall provide file copies of any relevant records in the registrar's possession on the request of a parent of a student.

No one in the office of Maine's State Registrar of Vital Statistics could address this dilemma (they did, however, acknowledge the potential for its existence), though I was reassured numerous times that the situation had not yet arisen (personal communication, 4 March 1999). As we shall see, the potential for a similar problem exists in numerous other states as well.

3. Complying with this sub-paragraph would of course be problematic if the reason for the delayed certificate is that the person in question had not yet been given a personal name, but as someone from Alabama's state Office of Vital Statistics explained (personal communication, 4 March 1999), in such a situation the person's surname would either be accepted as his or her "full name" or the person would petition a court under statute 22-9A-10, to be discussed shortly.

4. Indeed, a person need not even live in a remote place to be nameless. A story printed in the *National Digest* in October 1988 ("Hospitalized Toddler Never Was Given Name") recounts the sad tale of a three-year-old boy from Sacramento, California, who, on being hospitalized after nearly drowning, was determined not to have a personal name. The boy's guardian explained that the child had been given away at birth (without being put up for adoption) by his biological parents, given away again by his second set of parents (again without being put up for adoption), and that she, as the newest guardian, had simply never bothered to name him. Interestingly, that every child worldwide has a right to a name is one of the basic tenets of The Convention on the Rights of the Child that was adopted by the United Nations General Assembly on 20 November 1989 and which, as of 11 January 1999, had been ratified by all 193 countries recognized by the United Nations except Somalia and the United States (the full text of the Convention can be found on-line at http://www.unicef.org/crc/conven.htm; see also "World Briefs" 1999, and, for an explanation linking the failure of the United States to ratify the Convention to "partisan politics," Pham 1998).

5. It will be interesting to see what happens when someone finally attempts to give a child a registered trade name, such as *Coke*. (An apparent example of this lies in some parents naming their little girls *Mercedes*, but that given name, derived from the Spanish *Maria de Mercedes*, predates the *Mercedes* of automobile fame by many generations [Stewart 1979, 192].) No law expressly forbids the use of trade names in this way, but they are recognized by the courts as the property of the companies that register them (at least until the trade names come into widespread use as generic terms, as has happened with *jell-o*, *walkman*, *kleenex*, and a large number of others), and those companies have so far exhibited great zeal in retaining exclusive control (see Murray 1995). Before a company could sue an individual for the inappropriate use of one of its trade names, of course, it would have to learn of that use—all in all, an unlikely event unless the person was the child of a celebrity or became a celebrity in his or her own right.

6. The parents chose the surname, the hyphenated product of their own last names, both because they liked the symbolism and because the new mother had adopted it as her own many years earlier. It never occurred to them that the state in which they live might by law require the child to take the father's name—and, fortunately, Kansas does not. But a number of other states do have such a requirement in their statutes, assuming the mother and father were married to one another either at the moment of conception or at the moment of birth, depending on the state. Indeed, the law of surnames is vastly more complex than the law of personal names, for it must take into consideration not only cultural traditions and changing social mores, but issues such as paternity (including those connected with artificial insemination), bastardy, surrogacy, and adoption (see Lombard 1984 and Foggan 1983).

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Rhode Island: R.I. Gen. Laws 23-3-10, 23-3-12, and 23-3-21 (1998).

South Carolina: S.C. Code Ann. 44-63-150 (1998).

South Dakota: S.D. Codified Laws 34-25-8 and 34-25-51 (1998).

Tennessee: Tenn. Code Ann. 68-3-203, 68-3-301, and 68-3-30 (1998).

Texas: Tex. Health and Safety Code 191.028, 192.023, and 192.024 (1999).

Utah: Utah Code Ann. 26-2-5 and 26-2-8 (1998).

Vermont: 18 V.S.A. 5071, 5073, and 5075 (1998).

Virginia: Va. Code Ann. 32.1-257, 32.1-259, and 32.1-269 (1998).

Virgin Islands: 19 V.I.C. 804 and 831 (1998).

Washington: Rev. Code Wash. 70.58.120 (1998).

West Virginia: W. Va. Code 16-5-24, 16-5-12, and 16-15-14 (1999).

Wisconsin: Wis. Stat. 69.11 and 69.14.

Wyoming: Wyo. Stat. 35-1-410, 35-1-413, and 35-1-424 (1999).