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## **Legal Consequences of Name-changing Person in Official State Documents: A Civil Law Review**

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### **ABSTRACT**

*Changing the name is basically changing the person's identity on birth certificate. For its validity, name changing must meet the procedures contained in Law Number 23 of 2006. This research aims to find out the procedure for changing names in official state documents and the consequences of changing one's name in official state documents which are not procedural in terms of civil law. In conducting this research, normative legal research will be used by reviewing the existing laws and regulations. Name changing will have legal consequences for the new name and the legal status of official document will affect the changed name, but the rights and obligations will remain same. This happened because they were the same person, but their rights and obligations changed to different name that was obtained from local district court decision. The name changing will cause problems in population administration when it is not meet the procedure. Then, it is essential to follow the existing procedural in changing the name.*

**Keywords:** *Change of Name, Civil Law, Consequences*

## INTRODUCTION

According to *Kamus Besar Bahasa Indonesia*, the definition of *hukum* (law) is a regulation or custom that is officially considered binding, which is issued by the government. The definition of law can be grouped into two, in the form of law and law in the sense of implementing law enforcement by apparatus. The laws in legal products made by the state are regulated in order to achieve the objectives of state establishment.<sup>1</sup>

Indonesia is a state of law, then all citizens are obliged to obey the applied laws since the law is binding on all Indonesian citizens, there are separate sanctions for those who violate it. The laws are made to regulate all citizens, not to be violated. People who have high awareness are people who obey the applicable regulations, then the good citizens must obey the applicable regulations.

According to its content, law is divided into two kinds, public law and private law (civil law). Private law is a association that regulates the relationship between human beings, between one person and another with an emphasis on individual interests. Private law is a law that regulates the relationship between individuals in meeting their needs. Private law includes in civil law. Civil law is a provision that regulates the rights and interests of individuals in society. In this law, the basic autonomy principle of citizens belongs to themselves that they have the right to defend their own decision.<sup>2</sup>

In this world, humans are born in pairs, which is one of the important things in human life. By conducting marriage, people can have children that have been a part of human life. Children according to civil law are minors who have not reached the age of twenty-one years and have not been married before. This is stated in Article 330 of the Civil Code. The definition of children is meant that those who are not mature and have not reached the legal limit yet in law as legal subjects or like normal legal subjects determined by civil law.

A child has rights and obligations that need to be protected, guaranteed and fulfilled. The rights and obligations are things that every human being on this earth must have, including children. It doesn't matter from which ethnic, how rich, how smart, whatever it is certainly cannot be separated from rights and obligations.<sup>3</sup> One of the rights obtained from the child is the name that given to him as a symbol or nickname. The child will be registered after birth immediately and is entitled to a name.

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<sup>1</sup> Subiharta, "Moralitas Hukum Dalam Hukum Praksis Sebagai Suatu Keutamaan," *Jurnal Hukum dan Peradilan* 4, no. 3 (2015).

<sup>2</sup> Heri Setiawan, "Pengertian Hukum Adalah Dan Jenis-Jenisnya Yang Harus Dipelajari Biar Tak Salah Kaprah," *Liputan* 6, 2019, <https://www.liputan6.com/citizen6/read/3871421/pengertian-hukum-adalah-dan-jenis-jenisnya-yang-harus-dipelajari-biar-tak-salah-kaprah>.

<sup>3</sup> D.C Tyas, *Hak Dan Kewajiban Anak* (Semarang: Alpirin, 2019).

Since names are very important for children in the future, a child has the right to change his name. This has been regulated in Law Number 23 of 2006 concerning Population Administration. The name changing is also one of the important events experienced by Indonesian citizens (WNI) based on Presidential Regulation Number 25 of 2008. The important events are events experienced by a person including birth, death, stillbirth, marriage, divorce, child recognition, child ratification, adoption, name changing and the change of citizenship status.

Sometimes parents are too enthusiastic in giving children's names, they use words that are rarely heard by the public, and since it is too foreign for Indonesian people and it sounds unique and it can have a bad impact on children. For example, people will call with wrong name in public until incorrect writing in official state documents such as the Civil Registration Deed. Based on that phenomena, a child has the right to change his name or to correct his name in the Civil Registration Deed conducted by Civil Registration official at Implementing Agency or UPTD of Implementing Agency who regulates Civil Registration Deed either on the initiative of Civil Registration Officer or requested by the population. However, when years have passed, the changes in birth certificate must have a Court Order. After a court decision is made, the birth certificate is corrected at local Disdukcapil.<sup>4</sup>

When there is an error in writing the name in official State document, it should be corrected quickly as to not to hinder the administrative process that will occur in the future. When the official state document was issued but an error occurred and immediately corrected, it could be directly repaired at Disdukcapil. But when the incorrect is left to adulthood, the difference in names will cause problems in the future and to make corrections to previous documents, it required a court order.

## RESEARCH METHODOLOGY

According to Soerjono Soekanto,<sup>5</sup> research is a scientific activity based on certain methods, systematics and thoughts that aim to study one or several certain legal phenomena through analyzing them. In conducting this research, normative legal research will be used by reviewing the existing laws and regulations. Normative legal research involves the study of the law as an object and removes any non-legal material from the scope of this research.<sup>6</sup> This research has three approaches, such as:

- a. Statue Approach

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<sup>4</sup> Dinas Kependudukan dan Pencatatan Sipil Aceh Selatan, "Perubahan Nama."

<sup>5</sup> Soerjono Soekanto & Sri Mamudji, *Penelitian Hukum Normatif: Suatu Tinjauan Singkat*, 17th ed. (Jakarta: Rajawali Pers, 2015).

<sup>6</sup> Theresia Anita Christiani, "Normative and Empirical Research Methods: Their Usefulness and Relevance in the Study of Law as an Object," *Procedia - Social and Behavioral Sciences* 219 (May 2016): 201–207.

Statutory approach is research using legal documents in the form of statutory regulations as a basic reference in conducting the research. This is conducted by reviewing all laws and regulations related to the examined legal issues.

b. Conceptual Approach

Conceptual approach is a type of approach in legal research that provides an analytical perspective on problem solving in legal research from the perspective of fundamental legal concepts, or from the values contained in the standardization of a regulation in relation to the concepts used.

c. Historical Approach

With historical approach, researchers can understand more deeply regarding the rules of a particular system, institution or legal regulation to minimize the misconception, both in understanding and applying the regulation.

The method of analyzing legal materials is implemented by compiling through library materials or secondary materials which include primary legal materials, secondary legal materials and tertiary legal materials, both in the form of documents and applicable laws and regulations.

The procedure for obtaining legal materials in this research was conducted through the library research including literature study, reading, studying, researching, identifying, analyzing and transferring legal materials gradually. The literature study is submitted from library research which aims to acquire the concepts or theories and information as well as conceptual thoughts in the form of legislation and other scientific works.

## **RESULT AND DISCUSSION**

### **The Procedure for Changing Names in Official State Documents**

In name-changing process, it requires a process in official state letters, and the processes are quite long. There are several rename procedures, such as:

#### **1. According to the Civil Code**

The procedure for changing name according to the Civil Code is by submitting an application to local district court.

a) Family Name

In ancient times, a person was only allowed to change or add his surname based on the governor general permission or the minister of justice. This is stated in Article 5 paragraph 1 of the Civil Code. For example, someone who does not have a family name, an unknown child and they want to have a family name, they need the permission as in Article 5 paragraph 1 of the Civil Code. However, when the application is rejected, the Minister may provide another family name in accordance with Article 9 paragraph 3 of the Civil Code.

## b) First Name

To change or add to a person's first name/surname, a person must submit an application to District Court. For people who do not have a first name and want to use a first name, the prior permission must be obtained from the Minister of Justice. This stipulated in Article 6 of the Civil Code that states "No one is allowed to change their descendants name or add another name to their name without the President's permission and when the application is rejected, then the minister of justice can give another surname."

The permission from Minister of Justice or a court decision that changes or gives an additional name, or a new name must be registered in civil registry for the current year and documented on the side of birth certificate. However, the application submitted can be rejected when the names for which permission is applied are similar to the surnames of other people. Therefore, the applications the Minister of Justice before a decision will be made public through the country news. This is intended for the interested parties have the opportunity to file an objections to these applications. As well as in article 10 of the Civil Code explicitly states that the surname obtained due to the application cannot be used as a family name or associated with other people with the same family name.

### **According to Law No. 4 of 1961 concerning Changes or Additions of Family Names**

The procedure for changing names written by Budhianto S. Roestanadjie by quoting from a newspaper or Liberty magazine explain the name change procedure including:

1. Bring 3 (three) photocopies of Indonesian citizen certificates. For husband and wife, the photocopy needs to be legalized at local district court. Bring a photo of each 3 (three) of husband and wife.
2. Children under 18 years old do not need to fill out a separate form but follow their parents' form. For parents who are not included in Indonesian Citizenship Certificate, 3 (three) copies of birth certificates are required and legalized. However, children under 18 years old do not need to use a photo.
3. Each family head and family members required to fill out the form in 3 (three) copies.<sup>7</sup>

### **According to Law Number 23 of 2006 concerning Population Administration**

Based on article 52 of Law Number 23, 2006 concerning Population Administration, it is regulated that the name change is implemented based on the

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<sup>7</sup> Budhianto S Roestanadjie, "Penggantian Nama Berdasarkan Keputusan Presidium Kabinet No. 127/U/KEP./12/1966 Dan Akibat-Akibatnya Dalam Praktek" (Universitas Airlangga Surabaya, 1975).

determination of local District Court. Before submitting an application to local district court, there are several requirements that an applicant must prepare, such as:

1. Application letter, stamped and signed by the applicant
2. One sheet of Identity Card photocopy
3. One copy of Family Card
4. One copy of the marriage certificate
5. One copy of diploma (when it has anything to do with diploma)
6. One copy of birth certificate
7. One copy of witnesses' Identity Cards

When submitting an application, a clear reason for the change of name must be attached. The reasons include the intent and purpose of the applicant in changing the name. Changing the name should not be for a playful or trivial reason such as wanting to look cooler than the previous name since not all requests for name changing will be granted by the judge. Although according to the principle the judge may not reject the case, the judge may not grant the applicant's request based on unclear law.

To obtain a trial schedule, it is necessary to register by the applicant with bringing all the requirements to local district court. The applicant also required to bring at least two witnesses who will be presented at the trial. The witness is used as a reinforcement of the applicant's reason for applying for a name change. During the trial, the witness proposed by the applicant will be examined by the judge about the reason for the applicant's wish to change his name.

The completeness of these requirements will determine the number of trials that will be passed for an applicant. However, in general, the trial of the name change was brief and the trial costs will be charged to the party who submitted the application. The fee for each application is not the same and no other fees are charged with the aim of only the costs listed.

After conducting a trial and having the application granted by judge, the applicant must bring the judge's decision to local population and civil registry office to change his name in his country's official documents. The population and civil registration office will provide a side note about the name changed.

Initially, in changing name through the regulations that in accordance with the Civil Code, but there are exceptions for Chinese and Eastern group. At that time, there was a classification of civil law in Indonesia which was divided into:

- 1) Native Indonesian (bumiputera)
- 2) European
- 3) Chinese
- 4) Foreign Eastern who are not from China or Europe

Even though the Civil Code applies to all groups, there are exceptions regarding the name change regulation. Changing names for Chinese is only

regulated regarding changes to their first names in the Chinese Civil Registry Regulations. As for the other Foreign Easterners, there is no civil registration regulation.

Then, the Law Number 4 of 1961 concerning Changes or Additions to Family Names which issues from February 25<sup>th</sup>, 1961, which aimed to standardize the regulations regarding changes or additions to existing names in Indonesia. Then, the existing regulations in Civil Code regarding changes or additions to names are no longer valid with the issuance of Law Number 4 of 1961 while waiting for the issuance of National Civil Registry Law for all Indonesian citizens. After that, Law Number 23 of 2006 concerning Population Administration was regulated.

The name change procedure is based on Law Number 23 of 2006 concerning Population Administration. This happens because in Indonesia there is a new law principle that overrides the old law or *lex posterior derogat lex priori* principle. Then, old regulations will be revoked and replaced with the newest ones.

### **Legal Consequences of Changing Names in Unprocedural State Official Documents**

The birth name is a gift from parents which is contained a prayer in every word, but not all names from parents are good things for a child. There are cases that names from parents are contrary to the norms of decency that live in society. Although there is no official regulation regarding the name data in Indonesia. However, there are some general rules applied by Dukcapil, are:

1. Not contains a symbol

Giving the child name does not need to use symbols, but only with letters. In the inclusion of Dukcapil it has been informed that naming children may not be with symbol

2. Do not use “alias”

It is not recommended to use names with “alias” in residence registration. The use of “alias” in official documents will count as names. This will cause problems in the future.

3. Do not abbreviated/shortened

For example, a person named Ahmad should not be shortened to A in official documents. This is because the abbreviation A will be considered as a name

4. Easy to spell

In giving the name, parents should use a name that is easy to spell. Names with double vowel consonants will cause errors in documenting. The error registering will cause problems in the future.

5. Not too long

Giving a long name can cause problems since the name is abbreviated in official documents. A name that is too long on a birth certificate will fit when written in full, but this is different for an ID card or family card.<sup>8</sup>

When the name given by the parents is contrary to the norms that exist in society and the general rules set by the Dukcapil, it will cause a problem for the child. The difficulties experienced are in the form of getting access to public services in official state documents such as ID cards, driving licenses, family cards, and so on. When a child's name is against the norms that apply in community or violates the general rules that have been set by the Dukcapil, then he/she may change his/her name.

According to Big Indonesian Dictionary, consequence is something that is result of events that already occurred. As a result of someone changing the name on an official document, it will affect their civil rights. The legal consequences that occur when someone changes their name is the legality of the legal status of some authentic evidence in official state documents. These documents include birth certificates, family cards, ID cards, and so on. For example, in changing the name of a child under 18 years old, it will affect the legality of official documents such as the name on child's birth certificate and the name on family card. This also happens to someone who is an adult when conducting a procedural name change. The process that will be passed will be longer since changing the name begins with changing the name on birth certificate through the civil registration certificate. Then change the name on family card, ID card, passport, to school diploma. Even though there are legal consequences of changing name, the rights and obligations of a person remain the same. This happened because they were the same person, but their rights and obligations changed to a new name that was obtained after a decision from local district court.

Legal consequences are consequences that arise because of a legal event. When someone changes his name, it will affect the legality of official state documents but will not affect the rights and obligations of that person. One of the reasons why people change their names in official state documents is because they change their religion. This is based on the fact that the name used contains elements of the religion that was previously adopted. Sometimes people overlook the issue of renaming this.

As found on legalonline.com question and answer forum, someone asked when he changed religion become a Muslim and changed his real name with a name that has an identity from Islamic religion. After that he will marry in Islam and use a new name, even though he has not submitted an application to the local District Court regarding the application for a name change. This will not affect the marital

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<sup>8</sup> Rosy Dewi Arianti Saptoyo, "Ramai Soal Nama Anak, Ini Saran Dari Dukcapil Agar Tidak Sulit Urus Dokumen," 2021.



status that will occur. The marriage that will occur will still be valid even though the name has not received a legal determination from local District Court.

Legal marriage according to article 2 paragraph (1) of Law Number 1, 1974 concerning Marriage states that marriage is legal when it is conducted according to laws of each religion and belief. The religion and belief held by that person is Islam. According to Article 14 of Complications of Islamic Law which states that a marriage is valid when it fulfills the pillars and conditions of marriage according to Islamic law, such as:

- 1) Husband
- 2) Wife
- 3) Marriage guardian
- 4) Two witnesses, and
- 5) Ijab-qabull

When all the conditions and rukun have been fulfilled, the marriage will be valid even the name changes in the document are not conducted by District Court's determination or not according to existing procedures.

However, this will cause problems in population administration. The names differences in marriage books and birth certificates will cause problems when administering at government offices. The different names will be considered as different people, even when there is a typo or abbreviation of the name in other official documents is also considered a different person. When a person's name is considered a different person, it will affect the rights and obligations. In civil law, a human being as a legal subject has rights and obligations that are recognized by the state, and the consequences of changing names in civil law will affect everything related to law of persons/entities, family law, property law, and inheritance law. Then, when one person has a different name and considered as two people, he has two rights and obligations.

When there are problems in population administration because two names are considered different people, it is necessary to submit a certificate to village office to state that the two names are the same person. The requirements needed to submit a certificate of same person or a statement of different names, such as:

1. Photocopy and original KTP and Family Card in 1 (one) sheet each
2. Photocopy or legalize official documents as a supporting basis
3. The person related making a statement of reporting from one person with the same/different name
4. A cover letter from the head of RT and the head of RW.

It is illegal for a person to change his name in official state documents without the following procedures, because the unprocedural name change is a falsification of identity and can be subject to unlawful acts. Unlawful acts against the law are actions that violate the law, others' the rights and actions that harm others.

Changing names that are not procedurally appropriate will be a problem in population administration because someone's name is considered a different person, and it will affect their rights and obligations. When a person has a different name and is considered as two people, then he has two rights and obligations. And when the name change is not in accordance with the procedure, it causes losses and it can be an act against the law. It is better when the person changing the name, she/he must comply with the procedure and register their change, that the name on official document will not cause problems in the future.

## **CONCLUSION**

### **Conclusion**

The current name change procedure is in accordance with Article 52 of Law Number 23 of 2006 concerning Population Administration which states that the registration of name changes is implemented based on the determination of district court where the applicant is located. When someone changes his name unprocedurally, it will cause problems in population administration of being considered the two names are different people. A person's name is considered a different person and will affect their rights and obligations. When one person has a different name and is considered as two people, he has two rights and obligations. And when changing the name in an official state document through unprocedural manner can be considered as an act against the law.

### **Suggestion**

It is hoped that judge will grant a request for a name change that has reasonable reasons, for example for whom want to change a better name since Indonesian have the right to change names. The origin of new name does not violate the norms of decency, and government should issue an official regulation regarding the name and disseminate it to the public as soon as possible. Then, people are no longer name their children according to the norms and general provisions of Dukcapil. Someone who want to change is name should be obey to existing procedure based on Law Number 23 of 2006 concerning Population Administration for that will not cause problems when administer of population administration at government offices.

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