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# Community Legal Information Association of Prince Edward Island, Inc.

## Naming Your Child

The choice of first, or “given”, names for a child is usually made by one or both of the parents when the child is born. The last name, or surname, is determined according to a provincial law called the *Vital Statistics Act*. A change of name at a later date may be covered by the *Vital Statistics Act* or the *PEI Change of Name Act*, depending on the situation. A description of the law about surnames is provided here.

If both parents’ names are on the birth registration (Statement of Birth), the *Vital Statistics Act* says that the child can be given any one of the following surnames, or

- the mother’s last name
- the father’s last name
- a combination of the last names of the mother and father, in either order
- a completely different last name from either parent

If the parents can’t agree on a last name for the child, the law says it must be the parents’ last name (if they have the same last name), or a combination of both parents’ last names in alphabetical order. It is important to know that a combination last name can be made up of two names only.

If only the mother’s name is on the Statement of Birth, the child is given the last name chosen by her. If the father is not included on the Statement of Birth, the parents have the option to include the father’s information at a later date. If it is done within 30 days of the birth, there is no fee. Then the child’s last name can be changed to any of the choices listed above.

If the father’s name is already on the Statement of Birth at the time of marriage, the child’s name can only be changed through the *Change of Name Act*.

If the father is named on the Statement of Birth, his permission will be required to change the child’s name. Any change of the child’s name requires that both parents be notified and give their consent, whether they were married or not. A court can decide that this consent is not required, but you must apply to the court for an order stating this.

### **Changing a child’s last name**

The *PEI Change of Name Act* says that, if both parents agree to a change of name for their child, they can fill out an application at the Department of Vital Statistics for this to be done. There is a fee.

If the parents do not agree, the Supreme Court of Prince Edward Island must give its approval before the name of anyone under 18 can be changed.

One parent must apply to court for an order “dispensing with the consent”. This means the child’s name can be changed without the other parent’s permission. This will only be granted in some circumstances - for example, if one parent has not been involved in the child’s life. If the court gives permission to dispense with consent, an application for a change of name can be made at the Vital Statistics office. There is a fee. The Statement of Birth will be changed at that time.

Any child 12 years of age or older must sign a form at Vital Statistics agreeing to the name change.

### **Name Changes Due to Adoption**

When a child is adopted, the adopting parents have two options:

- A whole new birth registration can be done. The Statement of Birth is changed to new names chosen by the adopting parents and the adopting parents are recorded as the parents of the child. The old birth records are then sealed.
- The original Statement of Birth can be maintained. This requires the permission of the birth parents. The adopting parents are the legal parents of the child and the adopting parents’ names are also noted on the original registration.

When an adopted child reaches the age of 18 years, the *Adoption Act* says that he or she has the right to obtain information about their birth family. Information that will identify the birth parents will not be given out without the permission of the birth parents.

This pamphlet contains general information about the law. It is not a complete statement of the law in this area and is not a substitute for legal advice. To receive legal advice, you need to speak to a lawyer.

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CLIA provides Islanders with understandable and useful information about the law and the justice system in PEI.

For more information, you can telephone CLIA at 902-892-0853 or 1-800-240-9798, visit our website at [www.cliapei.ca](http://www.cliapei.ca) or email us at [clia@cliapei.ca](mailto:clia@cliapei.ca) . You can also find us at: [www.facebook.com/CLIAPEI](https://www.facebook.com/CLIAPEI), [www.twitter.com/CLIAPEI](https://www.twitter.com/CLIAPEI) and [www.youtube.com/CLIAPEI](https://www.youtube.com/CLIAPEI).

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