

STATE OF NEW YORK  
SUPREME COURT : COUNTY OF ERIE

---

In the Matter of

**M.M.H.**

Petitioner

**Index No. 814380/2020**

For Leave to Change Petitioner's Name to

**S.J.H.**

---

**Appearance**

Neighborhood Legal Services, Inc.  
Larry E. Waters, Esq, of Counsel  
Attorneys for Petitioner

---

**DECISION**

This proceeding is an application by the Petitioner for a legal name change, pursuant to New York Civil Rights Law, §60, *et seq.* The forms of relief sought here are all grounded on the reason for the requested name change, that being the Petitioner's transgender status. The Petitioner requests an anonymous caption (which is granted and used herein), a waiver of the requirement for the publication of the order granting the requested name change, and the sealing of the court's order.

**Background:**

It is unquestioned that transgender persons are the subject of harassment and violence with significantly greater frequency than most other segments of the American

population. It has been reported that 47% of survey respondents had been sexually assaulted in their lifetime and nearly one in ten respondents had been physically attacked within the past year because of being transgender.<sup>1</sup> At least 130 transgender and gender-expansive individuals were killed in the United States, from 2013 to 2018.<sup>2</sup> And most recently, it has been reported that 2020, with at least 37 transgender and gender non-conforming persons violently killed, has been the most deadly year since statistics have been kept.<sup>3</sup>

Noting that the number of transgender victims of violence is likely underreported, in 2019 the American Medical Association adopted a series of policy positions advocating for better education, data collection and police enforcement of hate crimes related to transgender persons.<sup>4</sup> The New York State Legislature also passed the Gender Expression Non-Discrimination Act ("GENDA") on January 15, 2019 (L 2019, ch 8), explicitly articulating a stated policy of extending protection to an individual's gender identity or expression. While not directly relevant to the relief requested in this case, it has reinforced and clarified the public policy of New York State of concern for the welfare and safety of such individuals.

Waiver of Publication Requirement:

Civil Rights Law §63 provides generally for the publication of an order granting a name change in a designated newspaper in the Petitioner's county. However, the court may make an exception to that requirement when publication could jeopardize the Petitioner's safety (Civil Rights Law §64-a). The first applicants for such a waiver were usually actual or potential victims of domestic violence (*Matter of Doe*, 3 Misc. 3d 648 [New York City Civil Court, New York County, 2003]).

---

<sup>1</sup> 2015 U.S. Transgender survey, National Center for Transgender Equality, Chapter 15, Harassment and Violence, pp.202-204.

<sup>2</sup> Human Rights Campaign Foundation, "Dismantling a Culture of Violence" (2018), p.2; and, "A National Epidemic: Fatal Anti-Transgender Violence in America in 2018".

<sup>3</sup> "An Epidemic of Violence: Fatal Violence Against Transgender and Gender Non-Conforming People in the United States in 2020", Human Rights Campaign, November 19, 2020.

<sup>4</sup> American Medical Association, 2019 Annual Meeting, House of Delegates press release, June 10, 2019.

Later, an application for the waiver of publication was granted to a transgender individual based upon an articulated concern for the petitioner's safety (*Matter of E.P.L.*, 26 Misc. 3d 336 [Sup. Ct., Westchester County, 2009]).

The New York State Legislature amended the Civil Rights Law, effective September 22, 2015 (L. 2015, ch 241), providing that a court could not deny a request for a publication exemption, solely because the petition did not contain specific allegation of threatened jeopardy or of instances in one's personal history (Civil Rights Law §64-a [1]). It has been thereafter held that the general assertion of perceived jeopardy would suffice (*Matter of J.A.L.*, 53 Misc.3d 1220(A) [Supreme Court, Suffolk County, 2016], relying upon *Matter of E.P.L.*).

This Court concurs with both of those decisions as it relates to a transgender petitioner. Given the body of literature and statistics as to the high potential for violence against such individuals, the expression of a general concern for one's jeopardy is sufficient without citing any specific actual or threatened instances of violence or harassment. The explicit and implicit protections as most recently provided for in GENDA unequivocally represent the stated public policy of the State of New York.

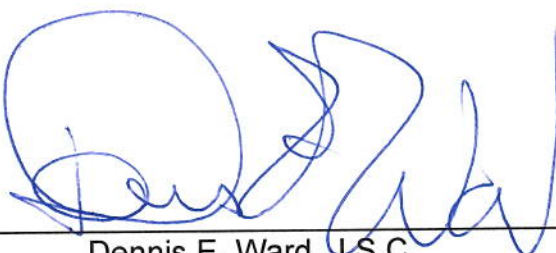
The Court therefore grants the Petitioner's request for an exemption from the requirement of the newspaper publication of the name change order.

An Anonymous Caption and Sealing of the Record:

For the reasons stated above, the court also grants the Petitioner's request for the anonymous caption of "M.M.H" (and after the change, "S.J.H"). The record shall be sealed except for the anonymous name initials and the index number.

This shall constitute the decision of the court. Counsel may submit an order drafted in compliance.

Dated: December 17, 2020



Dennis E. Ward, J.S.C.

HON. DENNIS E. WARD, J.S.C.