

Words Have Meaning and Names Have Power: Why Iowa Felons Deserve the Right to Change Their Name

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Abstract:

Thirty-four states allow convicted felons to legally change their names, and many allow felons to change their name while incarcerated. Iowa gives felons no such right so long as a person has civil disabilities (lost the right to vote, possess firearms, hold office). Although many states have updated their laws regarding felon name changes, Iowa Code § 674.1 has remained essentially untouched since 1981. This Note argues on behalf of felons who wish to change their name for religious or gender transitioning issues that Iowa’s law preventing convicted felons from changing their name violates the Eighth Amendment’s ban on “cruel and unusual punishment” and the First Amendment’s Free Exercise Clause; also, that the law represents bad policy. This Note examines how other states have dealt with the issue of felon name changes and makes recommendations of how Iowa should update its statute to either eliminate the civil disabilities requirement or allow an exception for felons who wish to change their name for religious or gender transitioning reasons.

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I. INTRODUCTION

The philosopher Confucius once said, “[w]hen names are not correct, what is said will not sound reasonable.”¹ America has forever been obsessed with its claimed roots in freedom and free will, yet there is one very defining aspect of life in America that is inherited at birth: our name. Until an Iowan reaches the age of 18, they are left with no legal control over what their name was.² It is a defining characteristic that they had no input on and over which they had no control. If someone does not choose their name, and would prefer being called by another name, what right have we to claim that the name they were assigned at birth is their proper name?

When a person is convicted of a felony in Iowa and that person then appears at the sentencing hearing to learn what their punishment is, the judge will never tell them that their sentence includes losing the right to change their name for 10 years or 20 years or even for the rest of their life, but that will be a hidden consequence of their sentencing as a felon. In Iowa, no one with civil disabilities may legally change their name.³ Civil disabilities include the loss of freedom, the loss of the right to vote, the loss of the right to hold public office, and the loss of the right to bear arms.⁴ The purpose of this law, as it was drafted in 1972 and later amended in 1981, was to help the government keep better track of felons and what rights they have lost.⁵ Although this intention may have made sense in the era of manila folders and metal filing cabinets, it has become outdated in the era of online databases that can be updated almost instantly and at the press of a button.

With no remaining legitimate purpose, the law now only serves to deprive prisoners and released felons of the right to be identified as their chosen name. This deprivation of freedom can take a very serious toll on transgender individuals who wish to change their name to reflect their gender.

¹ CONFUCIUS, ANALECTS: THE SAYINGS OF CONFUCIUS 174 (D.C. Lau trans., 1998).

² IOWA CODE § 599.1 (2024); IOWA CODE § 674.1 (2024); *In re Staros*, 280 N.W.2d 409, 411 (Iowa 1979).

³ IOWA CODE § 674.1 (2024).

⁴ See *Carter v. State*, No. 21-0029, 2022 WL 951077, at *1 n.1 (Iowa Ct. App. Mar. 30, 2022); see also *Disability*, BLACK’S LAW DICTIONARY (11th ed. 2019).

⁵ IOWA CODE § 674.1 (2024).

It also serves to deprive Iowans of their constitutionally protected freedom of religion, as all five of the most prominent religions in America have at least some sects within the religion that still actively practice changing one's name for religious reasons and many also have a rich tradition of name changes for religious reasons.⁶

Because the Iowa Code § 674.1 violates the “free exercise” clause in the First Amendment, The Religious Land Use and Institutionalized Person Act (RLUIPA), and the ban on “cruel and unusual punishment” in the Eighth Amendment, as well as being simply confusing and bad policy, either the Iowa legislature should strike down the existing law and replace it with more open system or create exceptions for felons who wish to change their names for religious or gender-transitioning reasons, or the Iowa Supreme Court should establish the same exceptions or strike down the entire current law as unconstitutional.

II. BACKGROUND

Iowa has some of the strictest laws of any state when it comes to the rights of felons to legally change their name. While a felon is imprisoned, there are no exceptions; they may not change their name.⁷ While a felon is on probation, the courts have yet to grant any exceptions.⁸ While a felon cannot vote or hold public office, there are no exceptions.⁹ While a felon cannot legally own a firearm, a penalty which some crimes require be imposed for life, there are no exceptions; they simply cannot legally change their name and there is no person of power or higher authority they may appeal to. Although this would not detrimentally affect most felons, those who have a strong desire to change their name for religious or gender affirming reasons may be inclined to experience far greater mental anguish and mental health problems as a result of the state of Iowa preventing them from legally changing their name. Many other states have found ways of satisfying the needs of felons while maintaining accurate records—the main criticism of allowing felons to legally change their name—therefore this infringement of rights is wholly unnecessary and should be remedied to prevent further senseless damage.¹⁰

⁶ *Religious Landscape Study*, PEW RSCH. CTR. <https://www.pewresearch.org/religion/religious-landscape-study> [<https://perma.cc/LV2E-9XNL>].

⁷ *Id.*

⁸ See generally IOWA CODE § 674.1 (2024).

⁹ See generally *id.*

¹⁰ Elizabeth Thomas, *I'm Not Out to Fool Anybody, I'm Out to Be Who I Am, and They Don't to Decide That: The Civil Rights Violation of Criminal Name Change Bans on Transgender Americans*, 43 WOMEN'S RIGHTS L. REP. 48, 60-62 (2022).

A. Changing One's Name in Iowa

For the average person living in the state of Iowa, changing one's name is not a difficult procedure. If they want to just change their name for any reason other than divorce, they simply fill out a "Petition for Change of Name" form.¹¹ Fill in their current name, their county of residence, a description of their height, weight, hair color, eye color, race, sex, their place and date of birth, their place of residence for the past five years, why they are changing it, a legal description of all the real estate they own in Iowa, and the new name they want to take.¹² Attach a copy of their birth certificate to that and pay the \$195 filing fee¹³ and within 30 days their name should be changed.¹⁴ If they are changing their name during a divorce proceeding, it is even easier. As long as they request a name change in their divorce petition or answer, the courts can include the name change in the divorce decree (as long as it is to one's immediately previous name or maiden name).¹⁵ All in all, a relatively simple process for most Iowans—that is, Iowans who are not convicted felons. For convicted felons in Iowa, changing their name is a marathon filled with hurdles and, for some convicted felons, the end of the race might not even be reachable.

The laws restricting name changes in Iowa are outlined in Iowa Code Chapter 674.¹⁶ The Chapter begins by stating, "[a] person who has attained the age of majority and who does not have *any civil disabilities* may apply to the court to change the person's name by filing a verified petition as provided in this chapter."¹⁷ The relevant issue is § 674.1's explicit language forbidding a person with "any civil disabilities" from even applying to the court to change their name.¹⁸ In 1974, Commissioner of the State Department of Health in Iowa wrote to Former Iowa Attorney General Richard C. Turner for clarification regarding whether an inmate of a penal institution in Iowa has a right to change their name under Iowa Code § 674.1.¹⁹ This letter was later

¹¹ *Name Change*, IOWA JUD. BRANCH, <https://www.iowacourts.gov/for-the-public/representing-yourself/name-change> [<https://perma.cc/34C5-QJSF>].

¹² *Id.*

¹³ IOWA CODE § 674.10 (2024); IOWA CODE § 602.8105(1)(a) (2024).

¹⁴ IOWA CODE § 674.4 (2024).

¹⁵ IOWA CODE § 598.37 (2024).

¹⁶ *See generally* IOWA CODE § 674 (2024).

¹⁷ IOWA CODE § 674.1 (2024) (emphasis added).

¹⁸ *Id.*

¹⁹ IOWA OFF. OF ATT'Y GEN., FORTIETH BIENNIAL REPORT OF THE ATTORNEY GENERAL FOR THE BIENNIAL PERIOD ENDING DECEMBER 31, 1974 518 (1974), <https://www.legis.iowa.gov/docs/publications/AGO/1043236.pdf> [<https://perma.cc/H87G-PWLP>].

published as an official Attorney General opinion.²⁰ Turner explained that, in order for a person to legally change their name, they must be under no “civil disabilities.”²¹ He then addressed the issue of whether an inmate of a penitentiary is under “civil disabilities.” He states that “the phrase ‘civil disabilities’ refers generally to those legal limitations attendant on criminal conviction.”²² Turner then goes on to explain that, in Iowa, “civil disability” has only been held to apply to limitations based on a felony conviction.²³

Besides the “civil disability” of the actual imprisonment, this also applies to loss of other rights, such as loss of the right to hold elected office,²⁴ loss of the right to vote,²⁵ and loss of the right to own a firearm.²⁶ Accordingly, anyone convicted of a felony, and who has actively lost these rights, has also lost the right to legally change their name.²⁷ This further prevention of changing one’s name based on loss of rights can lead to unintentionally long-lasting bans on name changes, confusion over whether one has regained the right to legally change their name, and permanent bans on the ability to legally change one’s name, a completely unintentional punishment.

So how long after a person is convicted of a felony does it take for them to gain the right to change their name back? The clock starts when the individual is convicted of a felony.²⁸ For the entire time a felon is incarcerated, they are inhibited by their maximum level of “civil disabilities,” and are deprived of the right to vote, hold office, and own firearms without an opportunity to restore these rights while serving a prison sentence.²⁹ This time of incarceration could be as little as one year of imprisonment, or it could be as high as life imprisonment. Once the prison sentence ends, a felon may also be required to serve a probation sentence.³⁰ In Iowa, the average probation sentence is 22.8 months, while the maximum probation sentence

²⁰ See 1974 Iowa Op. Att’y. Gen. 518–19 (*Pawlenski*), 1974 WL 373763 (May 6, 1974), <https://www.legis.iowa.gov/docs/publications/AGO/1043236.pdf> [<https://perma.cc/VHH9-QJJY>].

²¹ *Id.*

²² *Id.* at 519.

²³ *Id.*

²⁴ IOWA CONST. art. II, § 5.

²⁵ *Id.*; see IOWA CODE § 48A.6 (2024).

²⁶ IOWA CODE § 724.26 (2024).

²⁷ IOWA OFF. OF THE ATT’Y GEN., *supra* note 13.

²⁸ See IOWA OFF. OF THE ATT’Y GEN., *supra* note 13.

²⁹ M.C. Love, *Civil Disabilities of Convicted Felons: A State-by-State Survey*, OFFICE OF JUSTICE PROGRAMS, at 38–39 (1992), <https://www.ojp.gov/ncjrs/virtual-library/abstracts/civil-disabilities-convicted-felons-state-state-survey> [<https://perma.cc/BC98-7JR8>].

³⁰ IOWA CODE § 907.2 (2024).

for a felony is five years.³¹

A felon must also complete any special sentences imposed pursuant to Chapter 903B of the Iowa Code, such as “committing [a] person into the custody of the director of the Iowa department of corrections for the rest of the person’s life, with eligibility for parole,”³² or, in the case of some convicted of certain sex offense, they may “be required to undergo medroxyprogesterone acetate treatment as part of any conditions of release imposed by the court or the board of parole.”³³

Even after the prison sentence and probation period is served, “civil disabilities” are not automatically discharged. In order to have the right to vote and hold elected office restored, a felon must receive a pardon from the governor.³⁴ At this point in time, this pardon is fairly easy to receive, as once a felon completes their probation period, they are automatically pardoned for the sake of voting and the right to hold elected office due to Governor Reynolds signing Executive Order 7 in 2020.³⁵ This is only an executive order and vulnerable to being repealed in the future, but these “civil disabilities” are not of great significance for now, so they will not be addressed in depth.

However, restoring firearm rights is a much more complex issue. In order to restore firearm rights, “[i]t is the general policy of the Governor to require . . . at least five years to pass from the date a person discharges their sentence before restoring a person’s firearm rights.”³⁶ This is “designed to demonstrate an ability to lead a responsible, productive, and law-abiding life after conviction.”³⁷ Although this is a policy and not a hard-and-fast rule, “[a]ny waiver from the Governor’s general policy is rare and under exceptional circumstances.”³⁸ Assuming a convicted felon is able to restore their right to vote at all, it is still a long and arduous road to regain a right that many could easily do today if they had \$195.³⁹

³¹ *States Can Shorten Probation and Protect Public Safety*, PEW TRUSTS (Dec. 3, 2020), <https://web.archive.org/web/20210120225338/https://www.pewtrusts.org/en/research-and-analysis/reports/2020/12/states-can-shorten-probation-and-protect-public-safety> [https://perma.cc/6AZ3-EK5X].

³² IOWA CODE § 903B.1 (2024).

³³ IOWA CODE § 903B.10 (2024).

³⁴ See generally *Carter v. State*, No. 21-0029, 2022 WL 951077, at *1 (Iowa Ct. App. Mar. 30, 2022); IOWA CODE § 674.1 (2024).

³⁵ Iowa Exec. Order No. 7, Iowa Admin. Bull. XLIII, No. 5, 436 (Aug. 5, 2020).

³⁶ *Pardon & Commutations*, IOWA GOVERNOR, <https://governor.iowa.gov/services/pardons-commutations> [https://perma.cc/GW9R-E5H9].

³⁷ *Id.*

³⁸ *Id.*

³⁹ *Name Change*, *supra* note 6.

There are some situations which can tangentially deprive convicted felons of the right to change their name permanently. The most obvious example of this would be if a person were given a sentence of life imprisonment; if they can never leave prison, they can never discharge *any* of their “civil disabilities” and will be permanently deprived of that right. If a person is convicted of “a felony as defined in section 701.7, or convicted of an offense classified as a felony under federal law,” then they are prevented from registering to vote or voting and must receive a personal pardon or restoration of rights from the governor.⁴⁰ The policy of the governor is “to require at least ten years to pass from the date a person discharges their sentence before granting a pardon,” if they are willing to grant a pardon for these crimes at all.⁴¹ If the governor does not grant a pardon, these “civil disabilities” cannot be removed, again creating a de facto ban on the felon changing their name. However, the governor cannot grant a pardon to anyone who has received a deferred judgement, as they can only grant a pardon after a person is convicted.⁴² This means that if the deferred judgement involves a prohibition against owning firearms, there is simply nothing a person can do to remove this civil disability and they cannot change their name until after they successfully complete such a deferred judgment.

Finally, a felon cannot have their firearm rights restored if they are convicted of the following specific crimes:

- i. forcible felonies: i.e., felony child endangerment, most felony assaults, murder, most felony sexual abuse offenses, kidnapping, robbery, human trafficking, first-degree arson, or first-degree burglary;
- ii. controlled substance felony violations involving a firearm; or
- iii. felony weapon possession violations.⁴³

Therefore, those convicted of any of these crimes will face the added punishment of being permanently prohibited from changing their name. There is no appeals process.⁴⁴ The only way for the felon to potentially subvert this lifetime ban on legal name changes is by receiving a pardon from the governor’s office for the entirety of their crime, a feat that is very difficult to achieve.

⁴⁰ IOWA CODE § 48A.6 (2024).

⁴¹ *Pardon & Commutations*, *supra* note 26.

⁴² *Id.*

⁴³ IOWA CODE § 914.7 (2024).

⁴⁴ *Id.*

B. *Changing One's Name in Other States*

Many other states have far more liberal systems for name changes. “Although in some states prisoners may change their names only through an application to the judiciary, a petitioner's incarceration, without more, generally does not justify the denial of a petition for name change.”⁴⁵ In fact, only 17 states automatically prohibit convicted felons from changing their names.⁴⁶

One major example of such a system is New York. In New York, “[i]f the court to which the petition is presented is satisfied . . . that the petition is true, and that there is no reasonable objection to the change of name proposed, . . . the court shall make an order authorizing the petitioner to assume the name proposed.”⁴⁷ This system allows for a judicial sieve to catch the few individuals who might seek to change their names for nefarious purposes in the requirement that the petition be “true” and there be “no reasonable objection to the change of name proposed,” yet it allows most people who want to change their names for legitimate reasons, such as gender transitioning and religious worship, to do so.⁴⁸

In Virginia, the Virginia Supreme Court has explicitly allowed convicted felons to change their names while imprisoned, both for religious reasons and to accurately reflect their gender⁴⁹. Although Virginia's default rule is to not allow incarcerated persons to change their names, they have created an exception if “the court finds that good cause exists for consideration of such application under the reasons alleged in the application for the requested change of name.”⁵⁰ Even if the court denies an incarcerated person from changing their name, the incarcerated person can require the court to hold a hearing in which evidence regarding the circumstances behind the purpose of the name change is brought forward.⁵¹

If a Virginia court “determines that the change of name (i) would not frustrate a legitimate law-enforcement purpose, (ii) is not sought for a fraudulent purpose, and (iii) would not otherwise infringe upon the rights of

⁴⁵ IOWA OFF. OF THE ATT'Y GEN., *supra* note 13 (quoting Corpus Juris Secundum § 29. Change of Name of Prison Inmate).

⁴⁶ Beth Schwartzapfel, *What's in a Name*, MARSHALL PROJECT (Jan. 27, 2020, 6:00 AM), <https://www.themarshallproject.org/2020/01/27/what-s-in-a-name> [<https://perma.cc/6VVP-VDZ9>] (this number is somewhat in flux as laws are regularly changing).

⁴⁷ N.Y. CIV. RIGHTS LAW § 63 (McKinney 2021).

⁴⁸ *Id.*

⁴⁹ *See generally* Stephens v. Commonwealth, 645 S.E.2d 276, 276 (Va. 2007); *In re Brown*, 770 S.E.2d 494, 495 (Va. 2015).

⁵⁰ VA. CODE ANN. § 8.01-217(D) (2015).

⁵¹ *Id.*

others,” then the court may order the change of name.⁵² In *Stephens v. Commonwealth*, an inmate filed a petition to change his name pursuant to this code based on his conversion to Islam.⁵³ The Virginia Supreme Court found that changing one’s name for a religious purpose meets the “good cause” exception contained in the Virginia code.⁵⁴ Later, in *In re Brown*, a transgender inmate in Virginia sought to change her name from her masculine birth name to a new name that reflected her identity.⁵⁵ The Virginia Supreme Court again found this to be “good cause” for an inmate to change their name, with no evidence of a fraudulent purpose.⁵⁶

Florida law has similarly established that a prisoner’s petition to change is not properly denied if the petition is facially sufficient and there is no evidence of an ulterior or fraudulent purpose behind the name change.⁵⁷ The Court has the “discretion to order a hearing to determine whether the allegations in a name change petition are true,”⁵⁸ in which the petitioner need not be present, and testimony “may be taken by deposition, which may be recorded stenographically, videotaped, or taken by telephone.”⁵⁹ In a case involving a petition to change his name for religious reasons by a prisoner who converted to Islam while incarcerated, the appellant was denied his request for an evidentiary hearing due to the Department of Correction’s objection that a name change “would adversely affect its security interests.”⁶⁰ The court held that, when a prisoner’s name change is denied, they are also entitled to an evidentiary hearing.⁶¹

Even prior to *Carter* being brought in Iowa, cases were brought by transgender individuals challenging similar laws in at least four other states in 2019 alone: Illinois, Pennsylvania, Texas, and Wisconsin.⁶² Even more cases

⁵² *Id.*

⁵³ *Stephens v. Commonwealth*, 645 S.E.2d 276, 276 (Va. 2007).

⁵⁴ *Id.* at 278.

⁵⁵ *In re Brown*, 770 S.E.2d 494, 495 (Va. 2015).

⁵⁶ *Id.* at 498.

⁵⁷ *See, e.g., In re Boyd*, 627 So. 2d 30 (Fla. Dist. Ct. App. 1993); *Brown v. Name Change*, 611 So. 2d 1355 (Fla. Dist. Ct. App. 1993); *Casey v. State*, 604 So. 2d 1281 (Fla. Dist. Ct. App. 1992); *In re Keppro*, 573 So. 2d 140 (Fla. Dist. Ct. App. 1991); *Lane v. Kaney*, 557 So. 2d 210 (Fla. Dist. Ct. App. 1990).

⁵⁸ *Casey*, 604 So. 2d at 1282.

⁵⁹ *Gosby v. Third Jud. Cir.*, 586 So. 2d 1056, 1057 (Fla. 1991).

⁶⁰ *Hoyos v. Singletary*, 639 So. 2d 631, 631 (Fla. Dist. Ct. App. 1994).

⁶¹ *Id.*; *In re Boyd*, 627 So. 2d at 31.

⁶² *Casey*, 604 So. 2d at 1281. *See Ortiz v. Foxx*, 596 F. Supp. 3d 1100, 1102–03 (N.D. Ill. 2022); *In re Passmore*, No. 1355 WDA 2021, 2022 WL 1154711, at *1 (Pa. Super. Ct. 2022); *Langan v. Abbott*, 518 F. Supp. 3d 948, 950 (W.D. Tex. 2021), *Williams v. Racine Cnty. Cir. Ct.*, 541 N.W.2d 514, 515–16 (Wis. Ct. App. 1995).

have been brought since this time.⁶³ However, courts throughout the country have shown hesitancy in overturning state statutes based on these claims of unconstitutionality, and the federal courts have thus far shown themselves unwilling to decide these cases due to lack of standing.

In Illinois, a convicted felon may not file a petition to change their name “until 10 years have passed since completion and discharge from his or her sentence.”⁶⁴ The only exception requires a pardon.⁶⁵ In 2021, a group of transgender individuals who were barred under this statute from changing their name for various felonies convictions sued for declaratory and injunctive relief against the State’s Attorney’s Office and two state judges, seeking a declaration that the statute was unconstitutional and a grant of their name change petitions.⁶⁶ The court found that “[t]hose restrictions maintain public safety by preventing felons, and particularly convicted fraudsters and sex offenders, from circumventing post-conviction registration requirements by changing their names.”⁶⁷ The court ultimately found that it, as a federal district court, did not have jurisdiction due to it not being presented with a justiciable case or controversy, primarily based on Eleventh Amendment concerns.⁶⁸ The court does, however, make it very clear that this is a narrow decision and, further, that this was an issue that should be left to the states to decide.⁶⁹

In Pennsylvania, an inmate cannot change their name while incarcerated for a felony.⁷⁰ Once released from prison, they cannot change their name if they have ever been convicted of a violent crime.⁷¹ If they have committed a nonviolent felony, they can change their name only if they have been pardoned or two years have passed since the end of the sentence, and the felon is no longer on probation.⁷² This was challenged in 2021, when a person convicted of second degree murder in 2003, appealed the denial his petition to change his name to “Abdui Saboor” “so that it [would] conform to his cultural heritage and his belief in the Islamic religion.”⁷³ On appeal, he raised

⁶³ See e.g., *In re Hilliard*, No. 640 WDA 2022 2023 WL 2965377, *9–10 (Pa. Super. Ct. 2023).

⁶⁴ 735 ILL. COMPILED STAT. 5/21-101(b) (2024).

⁶⁵ *Id.*

⁶⁶ *Ortiz v. Foxx*, 596 F. Supp. 3d 1100, 1102–03 (N.D. Ill. 2022).

⁶⁷ *Id.* at 1103.

⁶⁸ *Id.* at 1110.

⁶⁹ *Id.*

⁷⁰ 54 PA. CONS. STAT. § 702(c) (2004).

⁷¹ *Id.*

⁷² *Id.*

⁷³ *In re Passmore*, No. 1355 WDA 2021, 2022 WL 1154711, at *1 (Pa. Super. Ct. 2022) (alteration in original).

five issues: he was denied due process and equal protection by (1) not receiving a hearing, (2) not allowing him to add his new name to his legal name, (3) the mental anguish he feels due to his given last name being “the name of a criminal who enslaved Appellant’s ancestors,” (4) the statute in question is blatantly unconstitutional because it violates his religious freedom and religious rights, and (5) not having his filing fee refunded.⁷⁴ The court dismissed the last issue for lack of standing and held that the other issues also lacked standing due to his murder conviction, which would automatically cause the petition to be struck down, even if a hearing was granted.⁷⁵ The court therefore saw no need to waste time and resources on such frivolous matters.⁷⁶ Finally, the court did not find that the appellant’s religious reason was sufficient to deem the statute unconstitutional, due to the government and public’s interest in maintaining constantly accurate records on prisoners.⁷⁷

In Texas, a convicted felon also cannot change their name while incarcerated for a felony.⁷⁸ Although there is no specific violent crime ban, once released from incarceration, they must also receive a pardon or have waited two years since receiving a certificate of discharge from the Texas Department of Criminal Justice.⁷⁹ In 2021, several transgender women who were incarcerated or formerly incarcerated sued the Texas Governor and Texas Attorney General, seeking to have this statute declared unconstitutional as applied to them and those in a similar situation.⁸⁰ However, the court never decided the issue, as they held that the plaintiffs did not have standing to sue either defendant, as claims against the Governor and Attorney General were barred by Eleventh Amendment sovereign immunity.⁸¹ In this way, the court dismissed the case prior to even determining whether there was a justiciable issue or controversy as they had in the Illinois case,⁸² however, they would likely have also dismissed the case on these grounds. Further, the court would not allow the plaintiffs to further amend the complaint, as they had done already once before.⁸³ However, they dismissed the case without prejudice, allowing a window for a new complaint

⁷⁴ *Id.* at *1–2.

⁷⁵ *Id.* at *4.

⁷⁶ *Id.* at *5.

⁷⁷ *Id.*

⁷⁸ TEX. FAM. CODE ANN. § 45.103 (2005).

⁷⁹ *Id.*

⁸⁰ *Langan v. Abbott*, 518 F. Supp. 3d 948, 950 (W.D. Tex. 2021).

⁸¹ *Id.* at 952–54.

⁸² *Ortiz v. Foxx*, 596 F. Supp. 3d 1100, 1110 (N.D. Ill. 2022).

⁸³ *Langan*, 518 F. Supp. 3d at 955.

to be filed in the future, this time against the proper defendants.⁸⁴ This serves as another example of the court's reluctance to overturn statutes such as this and the difficulties that come with trying to overturn a state statute as unconstitutional.

In Wisconsin, the courts have narrow discretion in determining whether "there is a legitimate reason to deny a petitioner's request for the change" based on the facts of the case, using a "reasonable proof" standard.⁸⁵ However, the Wisconsin Court of Appeals has held that the state has a legitimate interest "in being able to identify and identify quickly those persons both within prison and on parole who have been convicted of serious crimes."⁸⁶ In 2021, this was challenged by a convicted sex offender who was transgender who wished to legally change her name.⁸⁷ She primarily based her argument on the statute being a violation of her First Amendment freedom of speech protections and argued that the statute violates these protections in four ways:

[I]t forces her to display and disclose a name to which she strongly objects and fails to meet the strict scrutiny standard; it regulates expressive conduct because changing one's name is intimately intertwined with expression, and cannot meet the test for expressive conduct because the government interest could be achieved just as effectively absent the restriction on the name change; it constitutes an impermissible exclusion from a limited public forum; and it fails even if heightened scrutiny does not apply.⁸⁸

The court was unmoved, stating that she did not meet her burden in alleging a freedom of speech violation and faulted her for not engaging with any prior cases that held contrary to her intended outcome.⁸⁹ Accordingly, based on lack of legal support presented in her favor, the court dismissed her case.⁹⁰

In accounting for each state's law or court decision regarding the rights of felons to legally change their name, it should be noted that some states have neither laws on the books regarding this subject, nor have they decided any cases of note regarding prisoners' rights in this regard. The following data

⁸⁴ *Id.*

⁸⁵ *Williams v. Racine Cnty. Cir. Ct.*, 541 N.W.2d 514, 516 (Wis. Ct. App. 1995).

⁸⁶ *Id.*

⁸⁷ *Krebs v. Graveley*, 861 Fed. Appx. 671, 672 (7th Cir. 2021).

⁸⁸ *Id.* at 672.

⁸⁹ *Id.* at 674.

⁹⁰ *Id.*

and numbers are as accurate as possible as of December 2020.⁹¹ There are a number of states that have no limitations on name changes due to criminal record, or that simply require a more thorough filing process from incarcerated felons. There are many states that follow this system including Alaska, Arizona, Arkansas, California, Colorado, Georgia, Hawaii, Idaho, Kansas, Kentucky, Maine, Massachusetts, Minnesota, Missouri, Nebraska, New Mexico, Oklahoma, Ohio, Oregon, Rhode Island, South Dakota, Utah, Vermont, and Wyoming.⁹²

Several other states do not allow name changes while incarcerated, but have no criminal limitations once released from prison. The ban on changing one's name is likely either to satisfy outcry from the public about keeping track of prisoners or due to prison employees' concerns about record-keeping within the prison and the possible confusion that could occur. These states include Delaware, Mississippi, Montana (although they may allow exceptions for LGBTQ+ inmates), New Hampshire (although one can petition to change it while incarcerated), and Washington.⁹³

Other states do not explicitly ban felons from changing their names, but the petition to change their name is presumed to be in bad faith. However, this is a rebuttable presumption that requires evidence be brought to overcome that presumption. The states that use this system are Michigan, North Carolina, North Dakota, and Tennessee.⁹⁴ In Nevada, if an individual has been convicted of a felony, gross misdemeanor, or even a misdemeanor, they must include their fingerprints with their petition to the filing office, and then the judge will consider their criminal record in their decision whether to grant the name change petition.⁹⁵

Ostensibly, there is significant difference in the states' systems for felons changing their names. However, at least 35 states have less strict systems for felons changing their names than Iowa, and at least 29 have a system in place that makes it possible for felons to change their name while still incarcerated. This demonstrates the fact that states can implement methods which would ensure accurate record keeping and accountability while limiting the constitutional rights violations caused by an absolute ban on the rights of felons to legally change their names.

⁹¹ LANIE PETERSON ET AL., NAME CHANGE GUIDE FOR PEOPLE WITH CRIMINAL RECORDS 1 (2020), <https://translifeline.org/oaphoawo/2021/03/Name-Change-Guide-for-People-with-Criminal-Records-2020.pdf> [<https://perma.cc/LE9F-3BPD>].

⁹² *Id.* at 3–6, 9–10, 12–19, 21, 22, 24–26, 28.

⁹³ *Id.* at 7, 16–18, 27.

⁹⁴ *Id.* at 14, 20–21, 24.

⁹⁵ NEV. REV. STAT. § 179A.800, art. V(1) (1999); *see also Name Changes for Adults*, STATE OF NEV. SELF-HELP CTR. (2024), <https://selfhelp.nvcourts.gov/self-help/name-changes/name-changes-for-adults?enter=1> [<https://perma.cc/DRB2-HLGT>].

C. The Victims of Name Change Prohibition

Although this problem affects a variety of people convicted of felonies, the two primary groups that will be examined are convicted felons who wish to change their names for gender affirming reasons and convicted felons who wish to change their name for religious reasons, including conversion. From a constitutional standpoint, these two groups have the best argument that this statute violates their constitutional rights, and they have a very strong argument that these statutes represent bad policy.

III. CHANGING ONE'S NAME FOR GENDER AFFIRMING REASONS

When people transition, many seek to change their name to reflect their understanding of self and their life path; this is essential due to how crucial names are to identity based on how commonly they are used and their association with a public sign of one's gender.⁹⁶ A name is very important to the way people are treated and "becomes a source of empowerment to allow us to be who we want to be."⁹⁷ Many transgender individuals have found that a name is empowering to "one's sense of self-identity" in the fact that "once a transgender individual has decided on a name they own it."⁹⁸

For transgender individuals, "the available studies generally suggest high rates of negative mental health outcomes."⁹⁹ Although few studies have been done on the prevalence of mood and anxiety disorders among the adult transgender community, one study performed found "significantly higher levels of anxiety and depression among a sample of male-to-female transsexuals in comparison with nontransgender men."¹⁰⁰ A study published in the *Journal of Adolescent Health* surveyed 923 transgender individuals in living Canada aged 14 to 25 years old.¹⁰¹ The study found that transgender individuals aged 19 to 25 "had almost eight times the risk of serious suicidal thoughts" and over "16 times the risk of a suicide attempt in the past year."¹⁰²

Another study performed on a group of 392 transgender women living in San Francisco, California reported that 62% of transgender women

⁹⁶ Arielle VanderSchans, *The Role of Name Choice in the Construction of Transgender Identities*, 1 W. PAPERS LINGUISTICS, 2015, at 1.

⁹⁷ *Id.* at 6.

⁹⁸ *Id.* at 10.

⁹⁹ NAT'L ACADS. OF SCIS., ENG'G, & MED., *THE HEALTH OF LESBIAN, GAY, BISEXUAL, AND TRANSGENDER PEOPLE: BUILDING A FOUNDATION FOR BETTER UNDERSTANDING* 190 (2011).

¹⁰⁰ *Id.* at 193.

¹⁰¹ Jaimie F. Veale et al., *The Mental Health of Canadian Transgender Youth Compared With the Canadian Population*, 60 J. ADOLESCENT HEALTH 44, 44-49 (2017).

¹⁰² NAT'L ACADS. OF SCIS., ENG'G, & MED., *supra* note 85, at 194.

experienced depression.¹⁰³ That same study found that 32% of transgender participants in the survey had attempted suicide at some point in their life.¹⁰⁴ Another study of transgender individuals revealed that 36% of transgender men and 79% of transgender women attributed their suicidal ideation to their gender issues.¹⁰⁵ Yet another survey among LGBT participants in a sexual health intervention seminar showed that 52% of transgender participants reported to have depression, a rate higher than gay men (38%) and bisexual women (40%).¹⁰⁶

One of the core concepts to understanding the harm caused to transgender individuals is deadnaming. Deadnaming is simply “referring to someone by a name that they didn’t ask you to use.”¹⁰⁷ Deadnaming can severely negatively affect mental health for a number of reasons. First, it gives the person the impression that they and their choices are not respected and that they are not accepted for who they are. Next, it can take them back to a mental state that was horribly traumatic and which they might have put in great effort to distance themselves from. Further, it can detrimentally alter their self-image that they are working so vigorously to establish. Finally, for those who change their name for religious reasons, it may be quite offensive to their established religious beliefs and sensibilities.

In a study published in the *Journal of Adolescent Health* in 2018, data was collected from 129 transgender and gender nonconforming youth from three different U.S. cities who had taken new “chosen names” which did not conform to their birth names.¹⁰⁸ In many cases, these new names were gendered to reflect their transition. The study measured depressive symptoms amongst the subjects using a 20-item scale with sample items including “I hate myself” and “I think my life will be bad.”¹⁰⁹ The subjects were then asked if they were able to go by their “preferred name” at home, at school, at work, and with friends.¹¹⁰ They were asked a series of questions that helped determine whether they were getting social support from their parents, their close friends, their classmates, their teachers, and their

¹⁰³ *Id.*

¹⁰⁴ *Id.* at 196–97.

¹⁰⁵ *Id.* at 197.

¹⁰⁶ *Id.* at 194.

¹⁰⁷ *Why Deadnaming Is Harmful*, CLEVELAND CLINIC (Nov. 17, 2021), <https://health.clevelandclinic.org/deadnaming> [<https://perma.cc/XPE9-TTFW>].

¹⁰⁸ Stephen T. Russell et al., *Chosen Name Use Is Linked to Reduced Depressive Symptoms, Suicidal Ideation, and Suicidal Behavior Among Transgender Youth*, 63 J. ADOLESC. HEALTH 503, 503 (Oct. 1, 2018).

¹⁰⁹ *Id.* at 504.

¹¹⁰ *Id.*

school.¹¹¹

Amongst the participants, there were “no differences in depressive symptoms or suicidal behavior by personal characteristics including gender identity, race/ethnicity, sexual identity, age, access to free lunch, or study site.”¹¹² However, the more often the participants were able to use a chosen name predicted fewer symptoms of depression and less suicidal ideation and suicidal behavior.¹¹³ An increase in even one context predicted a massive decrease in depressive symptoms, a 29% decrease in suicidal ideation, and a 56% decrease in suicidal behavior.¹¹⁴ When a chosen name could be used in all four surveyed contexts, depressive symptoms, suicidal ideation, and suicidal behavior were at their lowest levels.¹¹⁵

Although the rate of depression among transgender people has been insufficiently studied, most—if not all—studies performed have shown statistically significantly higher rates of suicide and depression among transgender individuals as compared to their cisgender counterparts. Further, these few studies have also shown a significant mental health benefit to transgender individuals when the people around them are willing to refer to them by their proper name.

IV. CHANGING ONE’S NAME FOR RELIGIOUS REASONS

Name changes for religious reasons have occurred across religions for thousands of years and are still present in religious societies today. In both the Tanakh for Judaism and the Old Testament for Christianity, one of the earliest stories is the story of Abram—known sometimes as the founder of Judaism—who made a covenant with God by changing his name from Abram to Abraham.¹¹⁶ He was then instructed to henceforth to refer to his wife Sarai as Sarah.¹¹⁷ Abraham’s grandson Jacob later changed his name to Israel to sanctify his dedication to God.¹¹⁸ In current teachings, the Talmud lists a name change as something that can cause an unfavorable decree against them to be torn up.¹¹⁹ Rabbi Nissim ben Reuven (also known as the Ran) was a Spanish rabbi, a Talmudic commentator and philosopher, and was the most prominent Spanish halachic authority of his generation. His teachings

¹¹¹ *Id.*

¹¹² *Id.* at 505.

¹¹³ *Id.*

¹¹⁴ Russell et al., *supra* note 94, at 505.

¹¹⁵ *Id.*

¹¹⁶ *Genesis* 17:5.

¹¹⁷ *Genesis* 17:15.

¹¹⁸ *Genesis* 32:22-32.

¹¹⁹ Babylonian Talmud, Rosh Hashanah 16b.

are still important element of yeshiva curriculum in modern Judaism. He taught that a name change functioned to inspire a person to do Teshuva—repentance.¹²⁰ It helps solidify the concept that, going forward, that person must act differently, and that they are no longer the same person who committed the prior misdeeds. Another rabbi and Talmud commentator, Shmuel Eidels (also known as the Maharsha) taught that the purpose of a name change is to bring a change to a person's Mazal. In Judaism, the Mazal is the “root or main part of the soul, which is not experienced consciously.”¹²¹ Following a name change, the Mazal the person previously had no longer applies to them.

In some sects of Judaism, it is still taught that a patient should change their name if they are sick with a serious illness.¹²² Some sects also teach that a repenting sinner who does teshuvah—a return to a Jew's true essence—should also have their name changed.¹²³ It is also believed by some practitioners of Judaism that if a wife has been married for ten years and failed to produce offspring, she should change her name like Sarah to help her conceive.¹²⁴ Changes of name have a long history in the Jewish faith and are still practiced by some today as a form of religious worship and dedication to Judaism.

Further, in Christian teachings, three of Jesus' apostles— “Simon to whom he gave the name Peter; James the son of Zebedee and John the brother of James (to whom he gave the name Boanerges, that is, Sons of Thunder)”¹²⁵—had their names changed by Jesus to show their devotion to him. Later in the Acts of the Apostles after Saul—an enemy of Christianity—converts to Christianity, his name is changed by God from Saul to Paul to symbolize his conversion and rebirth.¹²⁶ It has further been theorized that “the name change in Acts 13 serves for the author of Acts as a vivid illustration of Paul's transformation from the proud ‘big man’ who persecuted the church, to the servant of ‘little’ David's messianic

¹²⁰ Rabbi Shlomo Zalman Bregman, *The Jewish View on Changing Your Name*, JERUSALEM POST (Dec. 20, 2017, 6:10 PM), <https://www.jpost.com/blogs/force-of-nurture/the-jewish-view-on-changing-your-name-518592> [<https://perma.cc/D3K3-REVE>].

¹²¹ *Mazal*, CHABAD.ORG, https://www.chabad.org/search/keyword_cdo/kid/11010/jewish/Mazal.htm [<https://perma.cc/ZUB3-SHXQ>].

¹²² Zushe Wilhelm, *Changing a Name*, CHABAD.ORG, https://www.chabad.org/library/article_cdo/aid/273309/jewish/28-Changing-a-Name.htm [<https://perma.cc/UFF8-YQH5>].

¹²³ *Id.*

¹²⁴ *Id.*

¹²⁵ *Mark* 3:16-19.

¹²⁶ Sean M. McDonough, *Small Change: Saul to Paul, Again*, 125 J. BIBLICAL LIT. 390, 390–91 (2006).

offspring.”¹²⁷

Even today, the head of the Catholic Church, the pope, follows religious tradition and changes his name upon ascending to the papacy, and Jorge Mario Bergoglio was no exception when he changed his name to Pope Francis I.¹²⁸ The concept of the pope taking a new name dates back to Pope John II in the year 533.¹²⁹ Pope John II’s birth name was Mercurius, but he changed it due to the name’s association with the Roman god Mercury. However, it did not become standard practice until the tenth century. The methodology behind the pope’s name usually involves a reference to a predecessor, which could be a previous pope, a saint, or possibly even a family member. It serves as a reflection on their religious past and reflects their worship and goals of religious service in the future.

In Buddhism, there is a concept called a Dharma name.¹³⁰ It is used by Buddhists to identify themselves as practitioners of Buddhism.¹³¹ Dharma names are given by a Dharma teacher at a lay person’s ordination or by a priest to mark entry into the Buddhist practitioner community.¹³² A Dharma name may be used by Buddhist practitioners inside the Dharma community or all the time, based on their personal decision and the custom of their Dharma community.¹³³ Selecting a Dharma name is an important expression of dharma and the practice of Buddhism itself.¹³⁴ Dharma refers to one name being given.¹³⁵ However, sometimes two names are given: the first name is a dōgō (way name), which is more formal and given when the Dharma teacher acknowledges that the practitioner has matured in their practice, and the second name is a hōgō (Dharma name), which is more intimate and informal,

¹²⁷ *Id.* at 391.

¹²⁸ *Pope Francis Lays Out Vision of ‘Poor Church’ Working for the People*, GUARDIAN (Mar. 16, 2013, 8:41 AM), <https://www.theguardian.com/world/2013/mar/16/pope-francis-st-francis-assisi> [<https://perma.cc/3FE2-X8ML>].

¹²⁹ Chris Burgwald, *Why Do the Pope and Religious Change Their Names?*, BISHOP’S BULL.: CATH. DIOCESE OF SIOUX FALLS (Aug. 1, 2020), <https://www.sfcatholic.org/bishopsbulletin/why-do-the-pope-and-religious-change-their-names> [<https://perma.cc/MD39-QXSE>].

¹³⁰ See GENGO AKIBA ET AL., PRIMER FOR SELECTING DHARMA NAMES i–ii (2001), https://static1.squarespace.com/static/5cad04a670468021b884ede4/t/5d72d4d7dfb60c5a4d8b1854/1567806687151/Primer_for_Selecting_Dharma_NamesCS.pdf [<https://perma.cc/M6J6-WD7G>].

¹³¹ *Id.*

¹³² *Id.*

¹³³ *Id.*

¹³⁴ *Id.*

¹³⁵ *Id.* at 1.

and is given when the practitioner receives the precepts and is ordained.¹³⁶ This practice is still very alive in some sects of Buddhism today and is an important aspect of dedication, matured practice, and displaying their Buddhist faith to those around them.¹³⁷

In Hinduism, names carry important meaning. In most sects of Hinduism, followers have a personal name that may be the name of a God or Goddess, a virtue, or that pays homage to something of aspirational or spiritual significance.¹³⁸ It is also common for astrology to play a part, both based on horoscope and time of birth.¹³⁹ Many sects place importance on including one's family name and some sects also include their place of origin and father's name as part of one's name.¹⁴⁰ Some sects of Hinduism, such as the Saiva Siddhanta Church, which is based in the Hawaiian island of Kauai, require converts who have Western or non-Shaivite names to:

Adopt a Shaivite name, first and last, and have it made legal The change of name, and using it under all circumstances, and this means *all* circumstances, is an important sign of religious sincerity to the Hindu community. It shows the willingness of the newcomer to stand up and be counted as a Hindu. So significant is the change of name to the Hindu community that an adoptive with a Hindu name on his passport can gain entry to many temples which categorically deny entrance to Westerners on the grounds that they are assumed to be non-Hindus.¹⁴¹

Names are very important to the practice of Hinduism and, in some sects, changing one's name upon conversion to Hinduism is still encouraged.¹⁴² In some sects, changing one's name legally is required of converts.¹⁴³

In Islam, it is taught today that the general rule is that one does not have

¹³⁶ See GENGO AKIBA ET AL., PRIMER FOR SELECTING DHARMA NAMES 1 (2001), https://static1.squarespace.com/static/5cad04a670468021b884ede4/t/5d72d4d7dfb60c5a4d8b1854/1567806687151/Primer_for_Selecting_Dharma_NamesCS.pdf [<https://perma.cc/M6J6-WD7G>].

¹³⁷ See *id.* at 3.

¹³⁸ Mat McDermott, *What Do Hindu Names Mean?*, HINDU AM. FOUND. (Mar. 14, 2022), <https://www.hinduamerican.org/blog/what-do-hindu-names-mean> [<https://perma.cc/9C3L-USAW>].

¹³⁹ *Id.*

¹⁴⁰ *Id.*

¹⁴¹ *Id.* (emphasis added)

¹⁴² *Id.*

¹⁴³ *Id.*

to change one's name when converting to Islam, but names should be changed in two cases. The first exception is "[w]hen it has a meaning that conflicts with Islamic teachings."¹⁴⁴ This refers primarily to someone having a name that belongs to a religion other than Islam or to someone having a name or attribute that belongs only to Allah.¹⁴⁵ The second exception is "[i]f the name has an evil or bad meaning."¹⁴⁶ If neither of these two exceptions apply, it is neither an obligation nor recommended to change one's name, but neither is it prohibited.¹⁴⁷ With name changes still being taught to be of great importance and significance in Islam today, it reflects an import aspect of worship within the religion.

According to Pew Research, the top five most prominent organized religions in America are Christianity—which is practiced by 70.6% of the U.S. population, Judaism—which is practiced by 1.9% of the U.S. population, Islam—which is practiced by 0.9% of the U.S. population, Buddhism—which is practiced by 0.7% of the U.S. population, and Hinduism—which is practiced by 0.7% of the U.S. population.¹⁴⁸ Together, that adds up to approximately 74.8% of the U.S. population that practices a religion in which at least some sects practice name change as a form of religious worship or expression. Many also have a rich history of changing one's name both in their religious teachings and within their religious traditions.

A. Carter v. State

The reason this statute came to the author's attention was a recent case that was appealed to the Iowa Supreme Court: *Carter v. State*. In *Carter*, a transgender woman named Abigail Carter wished to change her name while in prison and be resentenced under that new name.¹⁴⁹ Carter plead guilty to felony charges in 2012 and was sentenced to a total prison sentence of 25 years in prison.¹⁵⁰ When Carter was sentenced, she still identified as a man and was thus sentenced under her deadname Phillip Lee Carter.¹⁵¹ By 2016, Carter had begun transitioning and changed her name to Abigail.¹⁵² She also

¹⁴⁴ *Is It Necessary to Change One's Name After Converting to Islam?*, WHYISLAM.ORG (Nov. 7, 2016), <https://www.whyclam.org/article/is-it-necessary-to-change-ones-name-after-converting-to-islam> [<https://perma/cc/L239-46XW>].

¹⁴⁵ *Id.*

¹⁴⁶ *Id.*

¹⁴⁷ *Id.*

¹⁴⁸ *Religious Landscape Study*, *supra* note 5.

¹⁴⁹ *Carter v. State*, No. 21-0029, 2022 WL 951077, at *1 (Iowa Ct. App. Mar. 30, 2022).

¹⁵⁰ *Id.*

¹⁵¹ *Id.*

¹⁵² *Id.*

began using she/her pronouns.¹⁵³ At this point, she was diagnosed with gender dysphoria.¹⁵⁴

Gender dysphoria is a diagnostic category in the DSM-V which “refers to the distress that may accompany the incongruence between one’s experienced or expressed gender and one’s assigned gender.”¹⁵⁵ According to the DSM-V, “[t]he condition is associated with clinically significant distress or impairment in social, school, or other important areas of functioning.”¹⁵⁶

Due to a prison order, she began to be referred to by her chosen name in some informal daily interactions and some identification and name tags, but all written documents and the computer system continued to use her deadname.¹⁵⁷ In her postconviction relief application, Carter stressed the great deal of emotional distress that the continued use of her legal name causes her daily.¹⁵⁸ She showed evidence from outside sources of the proven emotional distress that deadnaming causes transgender individuals and testified to attempting to self-castrate multiple times due her gender dysphoria and emotional distress.¹⁵⁹

The district court addressed the issue on the merits and decided that Carter “has not provided any support for a claim based upon either gross disproportionality of sentence or deliberate indifference to a serious medical need.”¹⁶⁰ She appealed the decision to the Iowa Court of Appeals, which agreed with the district court. The Court rejected her argument that being prevented from changing her name constitutes “cruel and unusual punishment” as prohibited by the Eighth Amendment of the Constitution.¹⁶¹ Carter argued that her case fit within the “deliberate indifference” line of cruel and unusual punishment cases that deal with conduct that does not purport to be punishment that violates the Eight Amendment.¹⁶²

In some cases, the Supreme Court has applied the Eighth Amendment prohibition against “cruel and unusual punishment” to include some

¹⁵³ *Id.*

¹⁵⁴ *Id.*

¹⁵⁵ *Good v. Iowa Dep’t of Hum. Servs.*, 924 N.W.2d 853, 856 (Iowa 2019) (quoting AM. PSYCHIATRIC ASS’N, DIAGNOSTIC AND STATISTICAL MANUAL OF MENTAL DISORDERS 451 (5th ed. 2013)).

¹⁵⁶ AM. PSYCHIATRIC ASS’N, DIAGNOSTIC AND STATISTICAL MANUAL OF MENTAL DISORDERS 452 (5th ed. 2013).

¹⁵⁷ *Carter*, 2022 WL 951077, at *1.

¹⁵⁸ *Id.* at *2.

¹⁵⁹ *Id.*

¹⁶⁰ *Id.*

¹⁶¹ *Id.* at *4.

¹⁶² *Id.* at *2–3.

deprivations “not specifically part of the sentence but . . . suffered during imprisonment.”¹⁶³ To establish this subsection of claim, one must establish two elements: “the deprivation alleged must be, objectively, ‘sufficiently serious,’” and the relevant “official must have a ‘sufficiently culpable state of mind,’” that results in “the unnecessary and wanton infliction of pain.”¹⁶⁴ The first element of deprivation must be more than mere routine deprivation which is expected of convicted felon’s punishment, but rather demonstrate extreme deprivation.¹⁶⁵ The Court held that Carter did not meet this burden and that being stuck with a deadname was an expected part of the routine deprivations relating to prison life.

The Court went on to state that, even if it had found the deprivation serious enough to satisfy the first prong, Carter’s claim would not survive the second prong of the test.¹⁶⁶ It found that she did not provide any evidence of intentionally wrongful behavior on behalf of the prison employees.¹⁶⁷ Rather, it was demonstrated that they were just following the guidelines set forth by the Department of Corrections, which would establish their actions as nothing more than indifference.¹⁶⁸ Therefore, the Court denied Carter’s claim based on her failure to establish either of the two prongs of the test, and the Court affirmed the lower court’s decision.¹⁶⁹ Carter further attempted to convince the Iowa Supreme Court to hear her case and review it, but the Court ultimately rejected and denied her writ, putting a likely end to Carter’s ability to seek judicial relief for her grievance.¹⁷⁰

V. ANALYSIS

Although there may have been legitimate arguments in favor of a prohibition on people with “civil disabilities” legally changing their name when this section of the Iowa Code was passed in 1981—almost two years before the “modern internet” was invented—those fears are no longer founded in today’s technology. There is no reason to allow the state of Iowa to continue to violate felons’ constitutional rights and freedoms without legitimate reason. Over half of all states have figured out a way to at least give felons the opportunity to change their name while incarcerated or on parole. Iowa should follow in their footsteps and eliminate the language from Iowa

¹⁶³ *Wilson v. Seiter*, 501 U.S. 294, 297 (1991).

¹⁶⁴ *Farmer v. Brennan*, 511 U.S. 825, 834 (1994).

¹⁶⁵ *Hudson v. McMillian*, 503 U.S. 1, 8–9 (1992).

¹⁶⁶ *Carter*, 2022 WL 951077, at *4.

¹⁶⁷ *Id.*

¹⁶⁸ *Id.*

¹⁶⁹ *Id.*

¹⁷⁰ Appellant’s Application for Further Review of the Court of Appeals Decision, *Carter v. State*, 977 N.W.2d 517 (2022) (No. 21-0029), 2022 WL 2115474.

Code § 674.1 prohibiting those with “civil disabilities” from legally changing their name.

A. Iowa Code § 674.1 Violates the “Free Exercise” Clause and RLUIPA

Iowa Code § 674.1 is a constitutional violation firstly because it violates the First Amendment’s protection of freedom of religion. The First Amendment states that “Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof.”¹⁷¹ As explored earlier, changing one’s name represents an important aspect of religious worship. By prohibiting people’s ability to change their name, the Iowa Code is prohibiting the free exercise of religion.

On September 22, 2000, the U.S. Congress passed the Religious Land Use and Institutionalized Persons Act (“RLUIPA”). Section 3 of RLUIPA guarantees and protects institutionalized persons right to exercise their religion:

(a) GENERAL RULE.—No government shall impose a substantial burden on the religious exercise of a person residing in or confined to an institution, as defined in Section 1997 of this title, even if the burden results from a rule of general applicability, unless the government demonstrates that imposition of the burden on that person—

(1) is in furtherance of a compelling governmental interest; and

(2) is the least restrictive means of furthering that compelling governmental interest.¹⁷²

It places the burden on the government to demonstrate that they have a compelling governmental interest, that this discrimination furthers that interest, and that there is *no* means of furthering that compelling interest that is less restrictive.¹⁷³ It does not include a balancing test between how burdensome it would be to the government to allow the prisoner to engage in the exercise of their verses the rights being protected; the government has the burden to show that their method is the least restrictive means of furthering that interest.¹⁷⁴ If that interest can be accomplished in any other way that would be less restrictive to the inmate, then the government has

¹⁷¹ U.S. CONST. amend. I.

¹⁷² Religious Land Use and Institutionalized Persons Act of 2000, 42 U.S.C. § 2000cc–1(a) (2000) .

¹⁷³ *Id.*

¹⁷⁴ *See id.*

failed to meet its burden.

In 2015, the U.S. Supreme Court addressed a RLUIPA violation in *Holt v. Hobbs*.¹⁷⁵ In this case, an Arkansas inmate wished to grow a one-half-inch beard as a form of devotion to his Islamic beliefs.¹⁷⁶ The Arkansas Department of Correction prohibited this. They claimed that their compelling government interest was prison safety, as they believed prisoners could hide contraband in their beard or quickly shave to disguise their identity.¹⁷⁷ The Court reiterated that the prisoner “bears the initial burden of proving that his religious exercise is grounded in a sincerely held religious belief . . . and that the government’s action substantially burdens his religious exercise.”¹⁷⁸ The Court found that the plaintiff easily met this burden.¹⁷⁹ The burden then shifted to the government to show that they had a compelling government interest and that this was the least restrictive way of enforcing said interest.¹⁸⁰ The Supreme Court did not believe they met this burden, as they failed to show that they could not satisfy this interest using the less restrictive method of “simply searching petitioner’s beard.”¹⁸¹ The Court also found that did not meet their burden on the identification interest, as there are other, less restrictive methods to achieve this goal.¹⁸²

The Supreme Court also questioned why this prison specifically must have such a policy against facial hair when most states and the federal government do allow inmates to grow beards.¹⁸³ The Court held that, while not necessarily controlling, this was compelling evidence that such an interest could be achieved through less restrictive methods.¹⁸⁴ The Court went so far as to say that “when so many prisons offer an accommodation, a prison must, at a minimum, offer persuasive reasons why it believes that it must take a different course.”¹⁸⁵ Based on the plaintiff meeting his burden and the government’s failure to meet their burden, the Court held that the prison violated RLUIPA and that the plaintiff should be allowed to grow his beard as a way of exercising his religious freedom.¹⁸⁶

¹⁷⁵ *Holt v. Hobbs*, 574 U.S. 352, 352 (2015).

¹⁷⁶ *Id.*

¹⁷⁷ *Id.* at 352.

¹⁷⁸ *Id.* at 352–53.

¹⁷⁹ *Id.*

¹⁸⁰ *See id.*

¹⁸¹ *Holt v. Hobbs*, 574 U.S. 352, 365 (2015).

¹⁸² *Id.*

¹⁸³ *Id.* at 369.

¹⁸⁴ *Id.*

¹⁸⁵ *Id.*

¹⁸⁶ *Id.* at 352.

RLUIPA goes on to define “religious exercise” to include “any exercise of religion, whether or not compelled by, or central to, a system of religious belief.”¹⁸⁷ For some religions, changing one’s name *is* central to their system of religious belief and even more religions compel their followers to change their name. However, this does not matter, as a prisoner must only show that changing their name is an exercise of their religion, a burden that should be obtainable by basically anyone changing their name for religious reasons. Therefore, assuming any name change done for religious reasons is a “religious exercise,” two questions are raised: is this restriction on “religious exercise” in furtherance of a compelling government interest and, if it is, is the government currently engaging in the least restrictive method of carrying this compelling government interest?

The government usually points to keeping track of their prisoners, both in records and in the actual prison itself, as their compelling government interest. Upon entering prison custody, each prisoner is assigned a number by which the wardens and staff can keep track of them. If a prisoner were to change their name, this number would not change. It would not affect this system in anyway, therefore, this cannot be a valid compelling government interest. The government would then point toward being able to call a prisoner by their name and record keeping as a compelling government interest, as having to have wardens learn a new name and having to update prison records and sentencing would take some effort on behalf of the government. However, one must keep in mind that, unless a person is getting divorced, a person “shall not change the person’s name more than once under this chapter unless just cause is shown.”¹⁸⁸ This means that the government would only have to make such a change in their records once and would only have to remember a new name once.

If a court would find this to be a compelling government interest, the burden remains with the government to show that barring felons from changing their name while encumbered by civil disabilities is the least restrictive means of furthering that interest. The government simply cannot meet this burden. If the year were still 1981 (the last time Iowa Code § 674.1 was amended), perhaps the government could make a better argument that this discrimination was necessary, back when the internet and online databases had yet to be popularized and utilized in a record keeping capacity such as we see now. If everyone’s files were all exclusively on paper, it would be much more difficult to change. However, more than a few things have changed in the past 40 years, yet the Iowa Code has not kept pace. The purpose of enforcing civil disabilities through public awareness can be better met through online databases that can nearly instantly tell an arms dealer not to sell a firearm to a convicted felon who has yet to have their firearm ban

¹⁸⁷ 42 U.S.C. § 2000cc-5(7)(A) (2024).

¹⁸⁸ IOWA CODE § 674.13 (2024).

lifted. Even so, firearm bans can be lifted, which is proof in and of itself that the government has the capacity to update felon databases. If the government can add people to the felon database and take their names off of the database, surely, they can change names on that database just as easily. Therefore, if a convicted felon legally changed their name, the government could change that name and enforcing their ban on name changes is not the least restrictive method in furtherance of their goal.

Further, 28 other states in America have a system in place that allows convicted felons in prison the opportunity to change their name while still in prison. That demonstrates that allowing prisoners to do so is both possible and entirely feasible. Thus, there is very little need for the government to so heavily restrict prisoners' rights to exercise their religion freely. Preventing felons from changing their names is clearly not the least restrictive method for achieving their goal of keeping track of prisoners and their civil disabilities.

B. Iowa Code § 674.1 Constitutes "Cruel and Unusual Punishment"

Next, Iowa Code § 674.1 violates the Eighth Amendment's protection of prisoners against "cruel and unusual punishment."¹⁸⁹ The Eighth Amendment holds that "cruel and unusual punishments [shall not be] inflicted."¹⁹⁰ There is no static test that the courts use to determine when conditions a prisoner is kept in qualifies as "cruel and unusual," rather the courts "must draw its meaning from the evolving standards of decency that mark the progress of a maturing society."¹⁹¹

For a long time, the standards of decency in America would not necessitate the protection of the right to change one's name. However, society has come to a point where protecting the right to religious worship and the mental health of transgender individuals should be considered nothing less than a standard of decency. Those who were sentenced to imprisonment did not have a prohibition against changing their name listed explicitly as a punishment for their crime. However, the Eighth Amendment can be applied to protect deprivations of rights "not specifically part of the sentence but . . . suffered during imprisonment."¹⁹²

In alleging a deprivation injury as "cruel and unusual" punishment under the Eighth Amendment, an individual must establish two elements: "the deprivation alleged must be, objectively, 'sufficiently serious,'" and the relevant "official must have a 'sufficiently culpable state of mind'" that results

¹⁸⁹ U.S. CONST. amend. VIII.

¹⁹⁰ *Id.*

¹⁹¹ *Trop v. Dulles*, 356 U.S. 86, 101 (1958).

¹⁹² *Wilson v. Seiter*, 501 U.S. 294, 297 (1991).

in “the unnecessary and wanton infliction of pain.”¹⁹³ The “official's act or omission must result in the denial of ‘the minimal civilized measure of life’s necessities.’”¹⁹⁴ The deprivation is “sufficiently serious” for transgender individuals due to the severe emotional distress they are caused by being deadnamed, illustrated earlier in the data regarding the higher rates among transgender individuals who do not feel accepted.

Similarly, the deprivation is “sufficiently serious” for those wishing to change their names for religious reasons because any deprivation of religious freedom, as protected in the First Amendment, must be considered of sufficient importance and seriousness. The right to be called by one’s proper name also falls squarely under the “minimal civilized measure of life’s necessities,” as it is one of the few things expected in everyday, civilized society. Forcing someone to be known as or called by their deadname has become something that is totally unnecessary today, and to ignore a request to do so is wantonly disrespectful. The most difficult issue to overcome with this test is whether the official had a “sufficiently culpable state of mind.” Because they are just following prison procedure and the Iowa Code as it stands today, it would be easy for them to argue that they were just following the rules. This is why it is even more important that this issue also be attacked at the legislative level.

C. Iowa Code § 674.1 is Bad Public Policy

Finally, Iowa Code § 674.1 represents bad public policy. On the surface, the statute is confusing. The main thing it prohibits—felons with civil disabilities from changing their name—was so unclear to the public that it took a letter to the Iowa Attorney General to even clarify this meaning. It is outdated. Of course, there was a time when a felon’s civil disabilities had to be kept track of in a filing cabinet, but prisons have long since surpassed that point on a technological level. Well over half the states do not seem inhibited by keeping track of felons’ names when deciding whether they may change their names. This shows that prisons could easily set up a system to update a felon’s record with their new name in almost an instant. Therefore, the whole basis of banning felons from legally changing their name due to their civil disabilities is completely outdated and has become pointless. It serves no legitimate purpose and so unnecessarily inflicts an unintended punishment on felons for which they were not even sentenced. Also, it invites the unintended consequence of permanent deprivation of gun rights that anyone who is banned from owning a gun for their entire life is now banned from changing their name for their entire life. This is completely disproportionate to the crime committed and could severely punish felons discriminately based on their religious affiliation or gender identity. This policy thus creates

¹⁹³ *Farmer v. Brennan*, 511 U.S. 825, 834 (1994).

¹⁹⁴ *Id.*

needless discrimination based on an outdated understanding of recordkeeping. A new policy should be passed which does not measure a felon's right to change their name based on the presence of civil disabilities alone.

D. What System Should Replace Iowa Code § 674.1?

The question then becomes: what different system should Iowa adopt for when citizens are allowed to change their name? The most preferable system would be no restrictions on convicted felons, even while they are imprisoned (hereafter referred to as the "no restrictions" system). This system is already being followed by almost half of the states (24 states), which demonstrates that such an open policy is not impossible nor unfeasible. Prisons have the technological capacity to keep track of such felons and update their names in the system, so this system is very implementable without compromising the compelling government interests.

If Iowa is unwilling to accept this, then the "New York" system would be a strong second choice. This system would essentially allow anyone, including convicted felons, to change their name as the general rule. The burden would then shift to the prosecution to show a legitimate reason why a person should not be allowed to change their name, i.e., showing that the individual was only changing their name for fraudulent purposes. This system would be a fair compromise to those worried about felons taking advantage of the ability to legally change their name for fraudulent purposes, as they could still reasonably be denied, so long as the government has proof of these nefarious intentions.

If even this should prove too difficult for Iowa to pass, then passing a system like that of Michigan, North Carolina, North Dakota, and Tennessee would still be a marked improvement, as it would act much like the "New York" system, but merely shifts the burden on to the felon to prove that they are not changing their name for fraudulent purposes. This system would be tolerable, so long as the judges do not keep the burden too high so that felons wanting to change their name for legitimate reasons such as religious expression and gender affirmation may reasonably meet their burden, as they are the people whom such a burden should be based on.

If Iowa cannot eliminate its infatuation with preventing those who are encumbered by civil disabilities from changing their name, then Iowa must at least create exceptions to its system. Montana has created such an exception to allow LGBTQ+ individuals to change their name while incarcerated and Virginia has established an exception that allows incarcerated prisoners to legally change their name so long as they can meet the burden of showing they have "good cause" to change their name; both LGBTQ+ individuals and for people who wish to change their names for religious reasons have been held by the Virginia Supreme Court to qualify as "good

cause.”¹⁹⁵ Although this Virginia system is not ideal, it would be the easiest system to implement in Iowa, as it would not have to eliminate any rules currently in the Iowa Code. Rather, it would simply be added as an exception to the existing rules in the Iowa Code. Although this would be the most frustrating way to combat the injustices addressed in this Note, it would still prove a massive improvement and would grant marginalized prisoners hope and the opportunity to seek the respect and recognition they so deserve.

VI. CONCLUSION

As Henry David Thoreau once wrote, “[a] name pronounced is the recognition of the individual to whom it belongs.”¹⁹⁶ New legislation should be drafted to replace Iowa Code § 674.1 with a statute that does not create a universal ban on all felons from changing their name for an unreasonable and inordinate amount of time, which would ideally take inspiration from the “no restrictions” system or the “New York” system. Another option would be for the Governor of Iowa to sign an executive act creating an exception to the current law for individuals who wish to change their name for gender-transitioning reasons or religious reasons to change their name, or at least be given a hearing to show that their desire to change names is legitimate and not for any criminal or fraudulent purpose. As a third alternative measure, the Iowa Supreme Court should strike down the current statute or create an exception for transitioning individuals and individuals who wish to change their name for religious reasons—much like the state supreme courts in Montana and Virginia—as preventing these individuals from changing their names represents a First Amendment freedom of religion violation, violates RLUIPA, and violates the Eighth Amendment’s prohibition on cruel and unusual punishment.

To deny a person’s name is to deny that person’s humanity and dignity. To intentionally deny calling someone by their name demonstrates a lack of respect and understanding for them, their identity, and everything they stand for. We are all aware of the anguish intentional misnaming brings other human beings, as we have seen it all our lives. After fellow boxer Ernie Terrell refused to refer to Muhammad Ali as anything other than Cassius Clay, Ali raged three now iconic words at him as he laid on the ground, “[w]hat’s my name?”¹⁹⁷ This is the rage of person when someone jests at their religion and religious identity. This is the rage of members of the transgender community

¹⁹⁵ Peterson et al., *supra* note 78; VA. CODE ANN. § 8.01-217(D) (2023).

¹⁹⁶ HENRY DAVID THOREAU, A WEEK ON THE CONCORD AND MERRIMACK RIVERS 202 (Will D. Howe ed., 1921).

¹⁹⁷ FELIX DENNIS & DON ATYEO, MUHAMMAD ALI: THE GLORY YEARS 150 (2003); Tex Maule, *The Left That Was*, SPORTS ILLUSTRATED (Sept. 24, 2015), <https://www.si.com/boxing/2015/09/24/muhammad-ali-ernie-terrell-title-fight> [https://perma.cc/W78U-X6RR].

when they come to understand who they are, but people around them when they make fun of their identity and stubbornly refuse to accept them for who they truly are. Unfortunately, most of those who are wronged by those who seek to hurt others by misnaming them are not able to step into a physical boxing ring with their wrongdoers. Because of this, there must be an arena, the judicial system or the legislature. There is no reason to continue this cycle of aggression and pain when acceptance is so achievable through these means. Therefore, the state of Iowa must move forward with the passage of time and establish a path for convicted felons to change their names.