

Montana Legal Services Association

TransForm Legal Name and Gender Change Packet



Providing, protecting, and enhancing access to justice.



Pride Foundation

Pride Foundation fuels transformational movements to advance equity and justice for LGBTQ+ people in all communities across the Northwest.

Summary

Please note: If you are an immigrant, we strongly encourage you to talk to an experienced immigration lawyer before you contact the government.

You may use this legal name and gender change guide if you live in Montana. If you live outside of Montana, you may find some of this information useful. But, this packet talks about the laws and court forms in Montana only. So, it would be a good idea to [look for legal help in the state where you live](#). This guide covers lots of different situations. The guide uses the words “trans” or “transgender” as an umbrella term to refer to a diverse spectrum of people and their genders. Unfortunately, are not many official identification documents that recognize gender identities outside of the binary. You can use this packet to change your name if you identify as nonbinary, but you might not be able to get gender-neutral or nonbinary markers on many government documents. We’ll talk more about this and other specific situations in the Frequently Asked Questions section.

You can change your documents in any order, according to your needs. But, you can’t legally change your name without a court order. We start with a legal name change. We’ll talk about how to change the following documents in this order:

1. File a Petition in court to change your name and gender
2. Change your Montana Birth Certificate
3. Change your name with Social Security
4. Change your driver’s license
5. Change other government documents as necessary, like:
 - a. Public benefits records
 - b. Consular Reports of Birth Abroad
 - c. U.S. Passport

- d. Information with U.S. Citizenship and Immigration Services
- e. Military Services Records
- f. Selective Service
- g. Financial records
- h. School records
- i. Other records

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Frequently Asked Questions

Why is this process such a pain?

There is no “one-stop” process for getting your name and/or gender marker changed. This is because different agencies issue different identity documents, and each agency has different requirements for correcting records. This guide has information to help you work through a complicated system for changing your documents with many different agencies.

What are some words I need to know?

A **petition** asks the court to change your/your child’s legal name and/or gender. A **petitioner** is someone who files an action in court. If you are asking the court to change your child’s name and gender, you are the petitioner.

A **minor child** is a person who is under 18 years old.

A **gender or sex marker** is the letter on someone’s identification documents that indicates their sex or gender. For example, “M” is the marker for “male” or “man” on many official identification documents, such as a driver’s license.

An **Affidavit in Support of Petition for Change of Name and Gender** is a sworn statement of facts that support why the judge should grant you a name and gender change. An **Affidavit of Parent/Guardian in Support of Petition for Change of Name and Gender** tells the court that the parent(s)/guardian(s) agree that the child’s name and gender should be changed.

The **Order Granting Petition for Change of Name and Gender** will be filled out by the judge. The order will grant your/your child’s name and gender change and will order changes to your/your child’s birth records. The Order will tell you whether the judge is going to seal your record.

An **Order Setting Hearing** will be filled out by the judge and will tell you when and where your hearing will be held. The judge will schedule a hearing if the other parent doesn't agree to the name and gender change of their minor child.

A **Statement of Inability to Pay** asks the court to waive filing fees in your case. If you can't afford to pay the filing fees, ask your clerk of district court for an affidavit of inability to pay. This form may be called something else in your district.

A **sealed record** means that all court papers relating to your/your child's legal name and gender change will be kept from the public. The court will keep your/your child's papers in a file and will not let anyone else see them.

To "**serve**" is to make a legal delivery of a document or notice. For example, if someone is supposed to appear in court, they will be "served," or delivered, a document notifying them that they need to appear. There are many different ways that someone can be served with a notice. If the court mails the notice, then that person is being served by mail. If a person is supposed to appear in court but cannot be located, then they will be served by publication, meaning that a notice of the hearing will be put in the local newspaper.

Can I correct my gender marker if I haven't had a gender-affirming surgery? What if I'm not on hormones?

In Montana, you do not need a gender-affirming surgery or hormone therapy to correct your gender marker on documents issued by a state agency. Instead, you'll have to sign an affidavit. An affidavit is a statement that you swear to be true. You must sign the affidavit in front of a Public Notary, and your affidavit must state the following:

- You have undergone gender transition or are intersex,
 - **Note:** In Montana, there isn't a definition of gender transition. This means that you could be anywhere in your process of affirming your gender.
- Your birth certificate should be corrected to match your gender, and

- You are not changing your gender marker for any fraudulent or unlawful reasons.

However, for some federal documents, you will need a doctor's letter saying you are trans and that your doctor has helped you transition with healthcare assistance.

Can I get a gender-neutral marker?

Unfortunately, there aren't many documents that you can change to have a gender-neutral marker, like an "x" or "-." As of 2020, you are not able to get a gender-neutral marker on:

- Montana-issued IDs,
- A U.S. Passport,
- Immigration documents, or
- Social Security records.

We hope that state and federal agencies will soon update their systems and processes to recognize and affirm the diverse gender variance and identities beyond the binary.

If I am under 18 years old, can I still use this guide?

Yes. You can use this guide if you are an emancipated minor or if you have the approval of your parent(s) or guardian(s) during the court process. Legal emancipation is a process that sets a person free from some legal restrictions of a minor. But, you must also take on certain legal responsibilities. You can learn more by reading our [article on emancipation](#) on MontanaLawHelp.org. If you are not emancipated, your parent(s) or guardian(s) will need to correct your documents on your behalf. Look to the next section for guidance.

If I am changing my minor child's documents, can I use this guide?

This guide assumes that the person who is reading it is the same person who is correcting their identification documents, but all of the information presented in this guide can be used by a parent or guardian who is helping their child affirm their gender. There is a legal process for parents and guardians who are helping their minor child change their name and/or gender. As a parent or guardian, you will need to file the court paperwork. If you are a guardian, you will need to file additional forms to show the court that you are your child's legal guardian.

If your child has two parents or guardians, it's best if you both can sign the petition. If only one of you can sign the petition or agrees to sign, then the other will have to be served a copy. The other parent or guardian still has the right to participate in the court process, even if they do not agree. If there is another parent or guardian who is alive and has parental or guardianship rights of your child, but you don't know where they are located, you will need to publish a notice of your child's petition in your local newspaper, unless you feel as though the safety of your child would be jeopardized by such publication. You can find the laws that talk about bypassing a newspaper publication at [27-31-201, MCA](#). You do not need to get permission or serve a copy of the petition to another parent or guardian if a court has [terminated their parental or guardianship rights](#).

In what order should I change my documents?

There isn't one correct order for changing your documents. The order we change documents in this packet is just one possible order. We chose this order because it's often easiest to get your court order first, since changing your name and/or gender on other records most often requires a court order.

Can I keep my birth name and assigned sex at birth confidential?

Even after correcting all of your identity documents, it can still be hard to have complete control of information about your identity. For example, someone could find

out your previous legal name through a background check or a credit report, or you may be required to disclose your prior legal name in a court proceeding. The bottom line is that it is unfortunately, it's hard to ensure that your personal information will stay entirely confidential. But, it's also possible that it will never come back up — it just depends on individual circumstances.

Do I need a court order to correct the gender marker on my IDs?

No. You don't need a court order to correct the gender marker on any forms of ID issued by Montana or the federal government as of 2020. But, this could change, and there are other reasons why you might want to get a court order changing gender. You may need a court order if you were born in a state that requires one to correct the gender marker on your birth certificate. You can check the [National Center for Transgender Equality's ID Documents Center](#) to see if this is true for your birth state. Also, asking the court to issue an order changing name and gender isn't more expensive or lengthy a process than asking for only a name change. So, if you've already decided to ask for a court order changing name, you may decide it's worth getting a joint legal name and gender change. Also, you can use a court order changing gender in place of a doctor's letter to correct your Social Security information. However, if you're only correcting the gender marker on your documents, and you were born in a state that doesn't require a court order changing gender to correct your birth certificate, it may not be worth the expense and delay to get a court order. Still, some people may choose to get a court order because they want the extra documentation for security. In any event, the decision is up to you.

How do I correct my gender marker on my IDs without a court order?

In Montana, there are two ways to correct your gender marker on your birth certificate without a court order. The first way is to mail two completed forms to the Office Vital Records. You'll need to complete a:

- Correction of a Vital Record - Affidavit

- A gender designation form.

The Correction of a Vital Record - Affidavit is a sworn statement that:

- You have undergone gender transition or have are intersex (note: in Montana, there isn't a strict definition of gender transition),
- Your birth certificate should be corrected to match your gender, and
- You are **not** changing your identity documents for any fraudulent or unlawful reasons.

The Gender Designation Form asks for similar information to that on Affidavit.

The other way to change your gender marker is to use the Correction of a Vital Record - Affidavit and a government-issued ID with your gender identity. But, there isn't a clear process for getting a government ID with your gender identity without also having a court order.

Can I get a confidential court order?

Yes. In Montana, you can ask the court to seal your/your child's records. Sealing a records means that all court papers relating to the legal name and/or gender change will be kept hidden from the public. The court will keep all of the legal papers in a file and will not let anyone see them without a court order. If the court decides to seal your/your child's name and/or gender change, you also won't have to publish a public notice before your hearing. To seal the record, you have to show the court that:

- A public record and notice could put your safety at risk, and
- You are not trying to hide a criminal record or avoid a debt.

You can find the laws that talk about sealing court records for a name change at [27-31-201, MCA](#). MCA stands for Montana Code Annotated. 27 is the Title number. 31 is the Chapter number. And, 201 is the Section number. Most court documents are part of the public record by default. This means that if you don't ask the court to seal your record, someone could look at all of the court documents you filed.

How much does a court order cost? What if I can't afford to pay?

In Montana, there are fees for filing certain court documents. In 2020, the fee for filing a Petition for Name and/or Gender Change was \$90.00. There may be other fees as well. If you can't afford to pay the fee, you can ask the judge to allow you to file your paperwork without having to pay the fee by filing a "fee waiver" form. After you complete the fee waiver form, you must give the fee waiver to the court clerk where you're filing your petition. The official name for the fee waiver form is "Statement of Inability to Pay Court Costs and Fees." You can ask for the clerk of court for [the fee waiver form](#) or find one at MontanaLawHelp.org.

After you file the fee waiver form, the judge will review it to decide whether you have to pay the fee. It may take the judge a day or two to make that decision. The court clerk might not let you file your petition until after the judge makes a decision about your fee waiver. If it is denied, the court will let you know how they want you to pay the filing fee. If the court needs more information to decide whether to grant your request for fee waiver, they may schedule a hearing. The clerk of court will let you know when and where the hearing will take place. There are multiple ways to qualify for a fee waiver:

- If you receive certain public benefits, such as SNAP (food stamps), SSI (Supplemental Security Income), cash assistance, Medicare, Medicaid, TANF, or LIEAP, you are automatically eligible for a fee waiver.
- If you are incarcerated in prison or jail, you may qualify. An incarcerated person cannot be prohibited from filing a civil complaint because of lack of assets or money to pay the initial fees; however, courts are required to dismiss such complaints if the person fails to pay the partial (or full) payment determined appropriate after review of the incarcerated person's trust fund.
- If you are represented Montana Legal Services Association, or if you are represented by a volunteer/pro bono attorney and are financially eligible for free legal services, you are eligible. *(You must attach a certificate of eligibility from a legal aid organization to your fee-waiver request form.)*

What if I am not a U.S. citizen?

It is a good idea to talk to a lawyer experienced in immigration law before moving forward with a legal name and/or gender change. There are situations where applying for corrected immigration documents could lead to you getting put into deportation proceedings. You do not need to be a U.S. citizen or permanent resident to get a Montana court order changing name. The courts aren't allowed to deny you access because of your immigration status. But, if the court treats you differently because of your status, [talk to a lawyer](#) right away. To correct your immigration documents, you will need a court order changing name. You should correct your immigration documents before changing your Social Security Administration records.

What if I was born outside Montana?

In general, states must honor other state's court orders. So, if you were born outside of Montana, that state should accept a Montana court order changing name and gender when you correct your birth certificate. Texas, however, has different rules and will only accept a court order that says "change of sex." Texas does not accept orders that say "change of gender." If you were born in Texas but are filing in Montana, it's a good idea to cross out "gender" on your court forms and write in "sex" before you file. The edited forms are still legally binding as long as the judge signs them.

What if I have changed my name before?

If you have changed your name before, it's a really good idea to list your previous legal name(s) in your name change petition wherever the form asks for your current legal name. You can list former legal names as "FKA" or "Formerly Known As." This is especially important if you would like to correct your birth certificate. You may also want to list any other names/aliases you have used for official purposes that weren't your legal name, such as a name you went by earlier in life that is on a rental lease. Vital records agencies in many states are picky about the way names are listed on court orders. They often won't correct a birth certificate unless the name on the birth

certificate matches the former legal name on the court order. If you have changed your name before, we strongly recommend that you speak with an attorney, since the process may be a little longer or more complicated.

Steps for Getting a Court Order Changing Name and/or Gender

Step 1: Find and fill out the appropriate forms for your situation

To get any court order, you must first complete the basic paperwork. If you are a minor seeking a name and gender change (or a parent helping your child), you can find [the packet of forms and instructions](#) on MontanaLawHelp.org. This packet includes the following forms:

- Statement of Inability to Pay Court Costs and Fees,
- Petition for Change of Name and Gender of a Minor Child,
- Affidavit of Parent/Guardian in Support of Petition for Change of Name and Gender,
- Notice of Hearing on Change of Name and Gender of a Minor Child,
- Order Granting Petition for Name and Gender Change (Montana),
- Order Granting Petition for Name and Gender Change (Texas), and
- Order Granting Petition for Name and Gender Change (Other States).

There are three orders provided at the end of the packet because part of the order asks for a new birth certificate to be issued based on which state you were born in. If you were born in Montana, you would fill out only the first order provided in the packet. If you were born in Texas, you would fill out only the second order. And, if you were born in a state that is not Montana or Texas, you would fill out the third order only. The reason there is an order for Texas specifically is that Texas has different rules and will only accept a court order that says “change of sex.”

If you are a minor seeking a name change only (or if your child is seeking a name change only) please contact Montana Legal Services Association at 1-800-666-6899 or our website at www.mtlsa.org. The Montana Courts’ website has a forms packet for a legal name change of a minor, but **please note** that these forms do not ask the court to seal your record. If you are comfortable pursuing a name change without your record being sealed (in other words, posting in your newspaper that you are seeking a name

change and having your records be made public), then please feel free to use the [name change for minors forms packet](#) provided by the Courts online. However, if you would like to have your record sealed, or have any questions, then please contact us for help.

If you are an adult and are seeking a legal name and gender change, you can find the [packet of forms and instructions](#) on MontanaLawHelp.org. Similar to our packet for minors, this packet includes the following forms:

- Statement of Inability to Pay Court Costs and Fees,
- Petition for Change of Name and Gender,
- Petitioner’s Affidavit in Support of Petition for Change of Name and Gender,
- Notice of Hearing on Change of Name and Gender,
- Order Granting Petition for Name and Gender Change (Montana),
- Order Granting Petition for Name and Gender Change (Texas), and
- Order Granting Petition for Name and Gender Change (Other States).

As stated above, there are three orders provided at the end of the packet because part of the order asks for a new birth certificate to be issued based on which state you were born in. If you were born in Montana, you would fill out only the first order provided in the packet. If you were born in Texas, you would fill out only the second order. And, if you were born in a state that is not Montana or Texas, you would fill out the third order only. The reason there is an order for Texas specifically is that Texas has different rules and will only accept a court order that says “change of sex.”

If you are an adult and seeking a name change only, the Montana Courts’ website provides a forms packet that you can use. You can find this packet at www.courts.mt.gov. This packet includes the following forms:

- Petition (under Sealed Record),
- Order Sealing Record and Setting Hearing, and
- Order Changing Name (under Sealed Record).

We unfortunately do not have a forms packet for legal gender change only.

However, we may still be able to help you through this process of affirming your gender, so

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if you are an adult or minor (or parent helping your child) seeking a gender change only, please contact us at 1-800-666-6899 or at www.mtlsa.org/apply-for-services/.

Regardless of which forms you are filling out, keep in mind that when you are asked to list your “current” name, that generally means the name you were given at birth. If you have legally taken on a new name through a court order, marriage, or adoption, you should list that name as your “current” name, but also include your birth name as an “FKA” (Formerly Known As). You should also list this name wherever it asks for “Petitioner,” even if you’ve been using your chosen name for many years and have identification in that name. You should also put your chosen name wherever the form asks for “proposed name” or “new name.”

Note for those formerly incarcerated or with pending criminal matters:

Montana does not require a criminal background check or fingerprinting prior to a name change petition. Montana **does** require that any sealed name change be granted only if “the safety of the petitioner is at risk and the judge is satisfied that the petitioner is not attempting to avoid debt or to hide a criminal record.” As such, if you **do** have a record, it’s a good idea to send copies of the petition to the county attorney, Office of Probation and Parole, or Department of Corrections (as appropriate), and then note in your petition and affidavit that you have sent these copies.

Step 3: File the forms at the courthouse

After completing your forms, you should make two copies of all forms. You may not need this many, but it is good to have copies just in case. Then, file at the district court in the county where you live. Unless you are submitting a request for a fee waiver, you should expect to pay your filing fee when you submit your paperwork. If you are submitting a request for a fee waiver, you will either be told on the spot if your fee is waived, or you will be informed by mail. If the fee is not waived and you disagree with the decision, you can ask to speak to the judge and explain why you need a waiver. When you file your forms, ask the clerk for the date you can expect to have a ruling on

the name/gender change petition, how you will be notified of the ruling, and where you will be able to pick up the signed order and obtain certified copies.

You might be able to file your petition for name and/or gender change by mail instead. To do this, you will need to submit your forms and additional copies, a check for the fee amount (or your request for a fee waiver), and a self-addressed return envelope with postage paid. If you would prefer to file by mail, you should call the Clerk of District Court to confirm that you can file by mail and confirm that you are mailing all the necessary documents.

Note for petitions for minors who have at least one living parent or guardian who is not signing the petition:

If you are filing for a name and/or gender change of a minor, and only one parent or guardian is signing, you must “serve” the court documents to the other parent or guardian. If the other parent or guardian lives in the same county as you, you can ask the sheriff to serve the documents. The sheriff’s service fee is waived if you get a waiver of fees and costs. If the other parent or guardian lives outside of your county, you can contact the Sheriff’s Office of the County where they live to have the documents served. You can also serve by mail. If you are unable to serve by mail or with the sheriff, you will have to serve by publication, unless you request that your child’s records be sealed. You can find the laws that talk about sealing court records for a name change at [27-31-201, MCA](#).

Step 4: Attend the court hearing, if required

Adult petitioners will generally not have to attend a hearing if (1) the judge has sealed your record, (2) no one has contested your name and/or gender change, and (3) you checked off on your petition that you are waiving your hearing. While the clerk is supposed to contact you if a hearing is scheduled and you are required to attend, it may still be a good idea to call the clerk to confirm.

For minors, a hearing will only be scheduled by default if the minor has at least one living parent or guardian who doesn’t sign the petition. If the non-signing parent or

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guardian doesn't file a written objection with the court before the hearing date, the court will generally grant the petition without a hearing. Call the court two days before the hearing is scheduled to see if you must attend. Any non-signing parents or guardians must be notified (see Step 3 above), but a hearing may not be scheduled unless an objection is filed within twenty one days of the petition being served, not counting the date of service. You can find the laws that talk about sealing court records for a name change at [27-31-201, MCA](#).

If you have to attend your hearing, bring copies of all of your paperwork with you. It is especially important that you bring your proposed order if you have not already left a copy for the judge. During the hearing, there may be other people in the room with you who are also changing their legal name and/or gender. The judge may ask you questions regarding your paperwork at the hearing. Note that the clerk or judge may call you by your birth name if that is the name on your petition. If you are concerned about your privacy, you can ask the clerk to hold your petition last. It's up to the clerk whether they will honor the request, but it is worth asking if you would like to increase your privacy. If the court already ordered your records to be sealed, the clerk should close the court to other business while your hearing is held. That means they will ask everyone else to leave. The court may also opt to hold your hearing "in chambers," that is, in the judge's office rather than in the courtroom.

Step 5: Get copies of your completed order

Once your/your child's name and/or gender change has been approved, it is a good idea to get several certified copies of the order from the court clerk. This is because most agencies (such as passport offices and the Social Security Administration) require original certified copies of the court order. These agencies may never return the certified copies you provide them or they may only do so after a long delay. As a result, it is a good idea to get between two and four copies, depending on the number of documents you want to change. Generally, you can always go back to the same courthouse and get more certified copies of the court order, if need be.

Changing Your Montana Birth Certificate

Montana law allows a person born in the state to get a new birth certificate recognizing their gender identity. The Office of Vital Records accepts certified court orders from any U.S. state, so if you live out of state but were born in Montana, you can still change your Montana Birth Certificate.

If you are only changing your name on your birth certificate, you will use the same form (Affidavit) you would use if you were changing **both** your name and gender marker (or just gender marker). A “name change only” costs \$37.00, and a “name and gender change” costs \$27.00. Unfortunately, it is not yet possible to get a Montana birth certificate with a gender-neutral marker, such as “X.”

After the Office of Vital Records has received your application, your application will either be accepted or returned to you with a letter explaining which correction(s) are needed. If only a small correction is needed, the Office might just call you to ask for more information. If your application is accepted, the Office will issue a new or amended birth certificate within about three months. The forms in this packet ask the Office to issue a new birth certificate, **not** an amended one. If you’re doing a name change only and your order doesn’t ask the Office to create a new record, the Office will issue an amended, two-page birth certificate. An amended birth certificate will show what has been changed. If your application is for a name and gender change, you will get a new birth certificate without any notation that it is not your original birth certificate. Your old birth certificate will not be destroyed, but it can only be seen by others if they have a court order. Below are the steps for correcting your name and gender on a Montana Birth Certificate. After that, we’ll go over the steps for changing a name only on a Montana Birth Certificate.

Steps for correcting your name and gender on a Montana Birth Certificate

Step 1: Complete the Gender Designation Form

You can access the Gender Designation Form by visiting the Montana Department of Public Health and Human Services ([DPHHS](#)) [Vital Records page](#), calling (406) 444-2685, or going to your local clerk and recorder's office. The website has an online PDF form that allows you to type your information into the fields and print. (You can also print the form out and fill in all the information by hand.)

1. On the first blank, insert the name exactly as it appears on your current birth certificate.
2. Fill in the city, county, and date of birth exactly as they appear on your current birth certificate.
3. In the gender designation section, put your gender, limited to male or female.
4. Complete the remainder of the form by signing and printing your name, selecting your relationship (generally “self” or “parent”), and putting your address and phone number in the correct fields.

Step 2: Gather additional documents

You will need to submit the following documents along with the completed Gender Designation Form:

1. A personal affidavit stating that your request is being made to conform your sex assigned at birth to your gender. This form is available on the DPHHS website under “[Correction of a Vital Record - Affidavit](#).”
2. If you are changing your name as well, include a certified copy of the court order changing your name. Remember to check that the court order asks the Office of Vital Records to issue a new birth certificate.

Include a check or money order for \$27.00 with the form. This fee gets you a single certified copy of your new birth record. If you need more copies, such as for getting a Passport, each additional copy is \$12.00.

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Step 3: Mail the application

Mail all of these items to:

Office of Vital Records
Department of Public Health and Human Services
111 N Sanders, Rm 6
PO Box 4210
Helena, MT 59604

Steps for changing name only on a Montana Birth Certificate

Step 1: Complete the “Correction of a Vital Record - Affidavit”

This form is available on the DPHHS website under “[Correction of a Vital Record - Affidavit.](#)”

Step 2: Gather additional documents

You will need to submit the following along with the form:

1. A certified copy of your court order.

Note: As mentioned before, if the court order does not direct the Office of Vital Records to create a new record, they will issue an amended certificate. An amended certificate will still include your birth name.

2. A check or money order for \$37.00 (please note this is different from the \$27.00 for a name **and** gender change). This fee creates a new record. You will receive a single copy of the new birth certificate. If you need additional copies, they are \$12.00 each.
3. Optional: A photocopy of your current birth certificate. This may expedite the process.

Step 3: Mail your application

Mail all of these items to:

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Office of Vital Records
Department of Public Health and Human Services
111 N Sanders, Rm 6
PO Box 4210
Helena, MT 59604

Changing Your Name and Gender in Tribal Court

Please visit our [Tribal Court Resources for Name and Gender Change article](#) for information on the laws and forms for changing your name and/or gender in Tribal Court.

Changing Your Social Security Information

We suggest that after you get your court order, you go next to the Social Security Administration (SSA) to correct your records and get a new Social Security card. You'll need to change your name with the SSA before changing your Montana driver's license or state ID. The SSA requires you to submit proof of the legal name change. In most cases, this means a court order. (Generally, the only other proof of legal name change that the SSA will accept are proofs of name change by marriage, adoption, or divorce decree, or by Certificate of Naturalization.)

Social Security cards do not list gender, but the SSA has a gender marker in its computer systems. Other agencies and entities may look to the SSA to verify your gender, so it is still important to correct your gender marker on the SSA account. Unfortunately, the SSA does not recognize gender-neutral or nonbinary markers.

The SSA will accept several different documents to correct your gender marker. We talk more about these documents below. All documents you submit must be either originals or copies certified by the issuing agency. The SSA won't accept photocopies or notarized copies of documents. As in most other situations, if you are under 18 and are not emancipated, you will need the permission of your parents or guardians in order to change your name on your SSA account. There is no charge to get a corrected Social Security card; the service is free.

The process of changing the name on a Social Security card is outlined on the SSA website, in the [SSA FAQ section](#). The [SSA page on gender marker changes](#) is in the General Questions section. A gender-affirming surgery is no longer required to change the gender marker on SSA records. To view the SSA's current policy for processing changes of the gender on record, see the [Program Operations Manual System \(POMS\)](#).

Steps for changing your name and gender on record with the SSA

Step 1: Fill out form SS-5

Complete an Application for a Social Security Card, Form SS-5. When completing Form SS-5, list your chosen name. [Form SS-5](#) is available at Social Security offices or on their website.

Step 2: Gather documents

You will need to bring documents proving the following:

- Your U.S. citizenship or immigration status (for example, birth certificate or passport. These do not need to list your gender identity or chosen name, as long as you can document the link between your former and current legal identities with a court order.)
- Identity (for example, a driver's license or other photo ID. These also do not need to list your gender identity and/or chosen name, as long as you can document the link between your former and current legal identities with a court order.)

Step 3: Changing your name

If you are changing your name, include proof of the legal name change. You may use a certified copy of the court order. You may also use proof of name change through marriage, adoption, divorce, or Certificate of Naturalization.

Step 4: Changing your gender marker

If you are correcting your gender marker, include one of the following:

- A medical certification of “appropriate clinical treatment for gender transition” in the form of an original signed statement from a licensed physician. (We’ve included a model physician's statement in Appendix 1 at the end of this guide);

- A full-validity, 10-year passport that affirms your gender;
- A state-issued birth certificate that affirms your gender; or
- A court order directing legal recognition of your gender. Unfortunately, the SSA only recognizes court orders directing a change of gender to male or female.

Step 5: Visit the Social Security office

Take your completed application and documents to your local SSA office. You can find your nearest office using the [SSA office locator tool](#). You can also mail in your application to the SSA office. Generally, individuals have no issue correcting information with the SSA, as long as they are able to provide the documentation above, but in rare cases, the SSA may not be able to match your old name with your current legal identity. The SSA has a policy that requires applicants to show additional identification in these cases. Here is what the SSA policy says about additional identification:

“If the document you provide as evidence of a legal name change does not give us enough information to identify you in our records or if you changed your name more than two years ago (four years ago if you are under 18 years of age), you must show us an identity document in your prior name (as shown in our records). We will accept an identity document in your old name that has expired.”

“If you do not have an identity document in your prior name, we may accept an unexpired identity document in your new name, as long as we can properly establish your identity in our records.”

You can read the [full policy for yourself on the SSA website](#).

If you have the misfortune to encounter an SSA employee who does not understand the SSA policies or is biased against trans people, we recommend asking for a supervisor, and if that does not help, trying another office if there is one nearby. It's a good idea to talk to a lawyer if you feel that an SSA employee is treating you differently or not following their policy.

Important: People who receive SSI/SSDI

Changing your name and/or gender marker in your SSA account will not automatically change the information on your Supplemental Security Income (SSI) or Social Security Disability Income (SSDI) account. If you have an SSI or SSDI account, you should tell the SSA to change your name and/or gender on these accounts, as well.

Important: People with immigration documents

It may be a good idea for you to change your name and/or gender with U.S. Citizenship and Immigration Services (USCIS) before going to the SSA. This is because the SSA will check for immigration status. As always, you should talk to an experienced immigration lawyer before contacting the government. There are situations where applying for corrected immigration documents can lead to a person being placed into deportation proceedings.

Changing Your Driver's License or State ID

Step 1: Schedule an appointment

To correct your license or state ID, you will need to schedule an appointment at your local Motor Vehicle Division (MVD) driver license station. You can [schedule a driver license appointment](#) online at the Montana Department of Justice website.

Step 2: Go to the appointment

When you go to your appointment, you will be asked to fill out a Driver License & ID Card Application. When filling out the application, list your name and gender as you would like them to appear on your license or ID. The form will ask you to provide your Social Security number (so that the MVD can verify your name with the SSA). For a name change, bring a certified copy of your court order changing name to the appointment. For changing the gender marker, bring a certified copy of the court order changing gender and a letter of support from a therapist or physician. (If you do not have a court order changing gender, providing letters of support from both a therapist and a physician may speed up the process.)

New drivers and new residents

If you're a first-time applicant for a Montana driver's license or state ID, you will need to bring:

- 1) **One** document that proves your Montana residency, such as a utility or phone bill, rental agreement or rent receipt, school transcript or report card, or vehicle title, certified copy of school records issued by the school the applicant is attending or attended within four months of the application, a payroll check stub, or a written statement from your parent/guardian saying that you reside at their address along with a copy of a document that proves your parent or guardian's Montana residency (utility bill, phone bill, voter registration card, rental agreement, car insurance policy statement, etc.). To

view the [full list of acceptable documents](#), please visit the Montana DOJ website.

- 2) **Two** documents that prove your identity. You must provide either two “primary documents” **or** one primary document and one “secondary document.”

Primary documents can be a birth certificate, unexpired passport, permanent resident card, Certificate of Naturalization, or Certificate of Citizenship.

Secondary documents include a Social Security card, a current school photo ID card, a certificate of diver’s education course completion, a certified copy of your school records or a transcript, and court order that list your full name.

- 3) **One** document that proves your authorized presence in the US, such as your birth certificate, unexpired US passport, unexpired US passport card, unexpired certificate of naturalization, or unexpired permanent resident card.

To view the [full list of acceptable documents](#), please visit the Montana DOJ website.

- 4) Drive test documentation.

If all the documents you bring to your appointment list your chosen name and gender identity, you shouldn’t need to worry about providing documentation of your legal name and/or gender change. However, if one or more of your documents lists your birth name, bring a certified copy of your court order changing name to your appointment. And, if one or more of the documents lists your sex assigned at birth, you should bring with you a certified copy of your court order changing gender, as well as a letter of support from a therapist or physician.

Minors who already have a Montana license

If you are under 18, are not emancipated, and already have a driver’s license, you will need a parent or guardian’s permission to change your name and/or gender on your Montana driver’s license or state ID card.

Montana REAL IDs

The REAL ID Act lets states decide how to handle gender markers and does not limit what genders can appear on a REAL ID. Unfortunately, Montana drivers' licenses and state IDs do not list gender-neutral or nonbinary markers. If you are applying for a REAL ID, you will need to bring additional documents. In addition to your proof of legal name and/or gender change, you must provide:

1. **One** document that proves your identify, such as an original or certified copy of a your birth certificate (cannot be a photocopy or picture), current (not expired) U.S. passport, employment authorization, Certificate of Naturalization, Certificate of Citizenship, consular report of birth abroad, or permanent resident card (form I-551).
 - a. **Note:** If you do not have one of these documents, you will need to provide:
 1. **One** of the following documents:
 - a. A valid unexpired out-of-state REAL ID driver license,
 - b. A valid unexpired out-of-state REAL ID identification card,
 - c. Form I-766 or Form I-688B unexpired employment authorization document, or
 - d. An unexpired foreign passport with a valid unexpired U.S. employment authorization document, accompanied by form I-94 or I-551 stamp; **and**,
 2. **Two** of the following documents:
 - a. Valid unexpired out-of-state REAL ID driver license or ID card,
 - b. Form I-766 or Form I-688B unexpired employment authorization document,
 - c. Unexpired foreign passport with a valid unexpired Us employment authorization document, accompanied by form I-94 or I-551 stamp,

- d. Documentation issued by a federal agency demonstrating authorized status.
2. **One** document that proves your Social Security Number, such as your Social Security Card (not laminated), W-2 form, SSA-1099 form, non-SSA-1099 form, or a paystub. Note that the document you provide has to have your name and Social Security Number on it.
3. **Two** documents that prove your Montana residency, such as a utility or phone bill, rental agreement or rent receipt, school transcript or report card, or vehicle title. You can provide two of the same types of documents (for example, a May phone bill and a June phone bill). There are over twenty different documents you can bring to prove your Montana residency. You can look [at the whole list of documents for a REAL ID](#) at the Montana DOJ website.

There is no requirement to have a Montana REAL ID compliant license or ID. However, starting October 21, 2021, drivers' licenses that aren't REAL IDs will not be acceptable form of identification for domestic flights. REAL ID, passport, or permanent resident card will still be accepted for domestic flights. The Transportation Security Administration ([TSA](#)) [has a full list of acceptable forms of ID](#) starting October 21, 2021. For more information about REAL ID, go to the [Montana REAL ID website](#).

Step 3: Wait for the license or ID

The MVD will issue you a paper record (temporary license or ID) at the end of the appointment. The MVD will mail the actual plastic license or ID between one and two weeks afterwards.

Changing Your Name on a Vehicle Registration Record

Changing your name on a driver's license will not automatically correct vehicle registration information. To change name on your vehicle registration information, you'll need to fill out the [Application for Certificate of Title for a Motor Vehicle](#), which is available on the Montana Department of Justice's website. Attach a [Statement of Fact](#), which is available on the DOJ website, and deliver or mail the paperwork along with the \$10 title fee to:

Vehicle Services Bureau
PO Box 201431
302 N Roberts St
Helena, MT 59620-1431

If you have a bank lien on your car, you will likely have to correct your information with the bank before getting a corrected title. You can change the name on your vehicle registration while you wait for the title change to go through.

Changing Your Public Benefit Records

If you receive Social Security Disability Income (SSDI) or Supplemental Security Income (SSI)

If you have a Social Security Disability Income (SSDI) or Supplemental Security Income (SSI) account, it's very important to change your information in the Social Security Administration (SSA) system. The SSA has "linked" systems with the Office of Public Assistance (OPA), and once you correct your name and/or gender marker in your SSA account, it should show up on the benefits you receive through the OPA. However, it's a good idea to remind the SSA to forward your new information to the OPA to make sure it gets corrected. You should then contact your local OPA to confirm the change. You can find the [contact information for each OPA field office](#) on the DPHHS website.

If you do not receive SSI or SSDI

If you receive public benefits but do not receive SSI or SSDI, you will need to contact both the SSA and the OPA to change your legal name and/or gender marker. It's a good idea to change the information in your SSA records first. For example, if you have public benefits through both the OPA and SSA, you must change the gender marker in your Social Security records in order for the OPA to change the gender marker on your Montana Medicaid card. Then, to change your name on OPA records, follow these steps:

1. Change your name with SSA and the Motor Vehicle Division to obtain a new Social Security card and driver's license or state ID. You will need the documentation of your new name on your Social Security card and driver's license in order to provide documentation of your new legal name to the OPA.
2. Contact your OPA caseworker and ask for the Change of Information form.
3. Make copies of your Social Security card and driver's license or state ID.
4. Mail or hand deliver copies of your new Social Security card and driver's license or birth certificate, along with a completed Change of Information

form, to your nearest OPA. Again, to [find the OPA's for contact information](#), visit the DPHHS website.

The OPA will then correct your information and mail you a new electronic benefit transfer (EBT) card.

Changing Your U.S. Passport

U.S. passport policies say that officials must be respectful, use your correct pronouns, and not ask any medical questions if you've provided the required documents. If you run into any of these problems, please contact Montana Legal Services Association at 1-800-666-6899 or www.mtlsa.org.

Note: Since the fall of 2017, an increasing number of people have had issues changing their names on their passports. Some people's applications are being rejected if their documents list their birth name, even if they are applying within a year of obtaining their court order changing name and provide their court order. This goes against the U.S. Department of State's policy. Again, if you run into an issue like this, please contact Montana Legal Services Association.

Finding the Right Form for You

The U.S. Department of State does not have a single form for correcting your name and gender marker. The form you need will depend on whether you're changing your gender marker, whether you've had a passport before, and how old your previous passport was. You can download all of these forms from the website for the [U.S. Department of State Bureau of Consular Affairs](http://www.state.gov).

Form DS-11

Form DS-11 is the most common form for applying for a U.S. passport. You should use this form if **any** of the following are true:

- You are requesting a gender marker change
- You have never been issued a U.S. passport
- You are under age 16
- You were under age 16 when your previous passport was issued
- Your most recent U.S. passport was issued more than 15 years ago
- Your most recent U.S. passport was lost or stolen

- Your name has changed since your previous U.S. passport was issued, but you are unable to legally document your name change.

Form DS-5504

You should use Form DS-5504 if your passport is less than one year old and:

- You only need to change your name, **or**
- You want to change your limited-validity passport into a full-validity passport.

Form DS-82

You should use Form DS-82 if your passport has expired or was issued more than one year ago, and **all** of the following are true:

- Your passport is undamaged and can be included with the application,
- Your passport was issued when you were 16 years or older,
- Your passport was issued within the last 15 years, and
- Your passport was issued in your chosen name, or you can legally document your name change with a court order or marriage certificate changing name.

Note: this form may **not** be used to change your gender marker.

Regularly-required passport documents

The following documents are required to apply for a passport:

- **One** document proving U.S. citizenship. (The document doesn't need to affirm your chosen name and gender identity if you're applying within one year of obtaining your court order changing name and/or gender.)
 - U.S. passport (can be expired)
 - Birth certificate
 - Certificate of Naturalization
 - Certificate of Citizenship
 - Consular Report of Birth Abroad

- A photocopy of the front (and if there's printed information on the back, the back as well) of the U.S. citizenship evidence you're providing. Your photocopy has to be on standard 8" x 11" white paper, in black and white ink, and one-sided.
- A current ID. The list of acceptable IDs is pretty long. You can find the [full list on the Bureau of Consular Affairs website](#). (The ID doesn't need to affirm your chosen name and/or gender identity if you're applying within one year of obtaining your court order changing name and/or gender.)
- A photocopy of the ID you are providing, with the same guidelines used for submitting a photocopy of your U.S. citizenship evidence.
- A passport photo. You can get passport photos taken at drugstores, like Walgreens or CVS. The [full list of passport photo requirements](#) is on the Bureau of Consular Affairs website.

Passport application fees

The cost of a passport varies based on which form you submit and your age. The Bureau of Consular Affairs has a [full list of passport application fees](#).

Steps for changing your gender marker on a passport

You can view the U.S. [Department of State's webpage on passport gender marker changes](#) online. Unfortunately, the U.S. Department of State only issues binary markers.

1. Fill out Form DS-11.
2. Provide a physician's letter stating that you have transitioned or are transitioning.

Your physician's letter has to include:

- Your physician's name, address, and phone number;
- Your physician's license/certificate number;
- The state that issued your physician's license/certificate;
- A statement that your physician has treated you;

- One of the two statements about transition:
 - You have “had appropriate clinical treatment for transition from [insert your sex assigned at birth] to [insert your gender]” **or**
 - You are “in the process of getting appropriate clinical treatment for transition from [insert your sex assigned at birth] to [insert your gender],” and
 - The statement: “I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.”
3. Provide a certified copy of your court order changing your name (if applicable).
 4. Submit all regularly-required passport documents, Form DS-11, your physician’s letter, your court order changing name (if applicable), and the passport application fees to a passport acceptance facility. To find a facility, go to the [Passport Acceptance Facility Search page](#).

Important notes about your physician’s letter: If your physician uses the second statement about transition listed above (that you are “**in the process** of getting appropriate clinical treatment for transition”), the U.S. Department of State will issue you a **limited-validity passport**. Asking your physician to use this statement may be a good idea if you are beginning to transition and think you will want to update your passport in a couple of years. Limited-validity passports are renewable, have the effect of a full passport, and are valid for two years. During the two-year validity period, you can convert your limited-validity passport to a full-validity passport by submitting Form DS-5504, your limited-validity passport, a passport photo, and a new a physician’s statement that says that you have had “appropriate clinical treatment for transition.” You can mail these documents to the address provided on Form DS-5504. Unless you request expedited service, no fee is required.

The Department of State requires that physicians’ letters be provided by licensed physicians (doctors of medicine or osteopathy) and unfortunately does not accept letters from nurses, therapists, psychiatrists, health practitioners, pharmacists, or chiropractors.

The Department does not have requirements on what defines “appropriate clinic treatment for transition.” We include a physician’s letter template at the end of this packet, Appendix 1. You may also use the [physicians’ letter template](#) provided by the U.S. Department of State.

Steps for changing your name only on your passport

1. Fill out Form DS-5504, DS-82, or DS-11, depending on which form is most applicable to your situation.
2. Provide a certified copy of your court order changing name.
3. Submit all regularly-required passport documents, your form, your court order changing name, and passport application fees (unless you are submitting Form DS-5504) to a [passport acceptance facility](#).

If you are 15 years old or younger

If you are 15 years old or younger, you will also need to provide documentation that lists the name(s) of your parent(s)/guardian(s) to “show parental/guardian relationship.” Documents that may be used to show parental/guardian relationship include a U.S. or foreign birth certificate, a Consular Report of Birth Abroad, an adoption decree, or a divorce/custody decree. Your parent(s)/guardian(s) will also have to show consent. They can show consent by going with you to the passport acceptance facility.

The U.S. Department of State requires that two parents or guardians provide consent, which can make the passport application process difficult for many families. If you don’t have two parents or guardians who can go with you, you will need to provide additional documentation. If you have one parent or guardian, they will need to provide evidence of sole custody, such as a divorce decree, custody order, adoption decree listing them as the only parent/guardian, or other documents. If you have two parents or guardians, but one isn’t able to go with you, you must submit Form DS-3053, “Statement of Consent.” If you have two parents or guardians and one of them is incarcerated, you must submit Form DS-5525 “Statement of Exigent/Special Family Circumstances” and their incarceration order. There are many circumstances in which

two parents or guardians cannot go with you to provide consent. The [Bureau of Consular Affairs has a list of forms and documentation](#) you'll need.

If you are 16 or 17 years old

If you're 16 or 17, you will need to "show parental or guardian awareness." To show parental or guardian awareness, your parent or guardian has to go with you to the passport acceptance facility. Your parent or guardian will be asked to sign your form. Make sure that your parent or guardian brings a photocopy of their ID. If your parent or guardian isn't able to go with you to apply, you can bring a signed and notarized statement from them consenting your application for a passport, along with a photocopy of their ID. The Bureau of Consular Affairs has [more information for passport applicants age 16 and 17](#).

Changing Your Consular Reports of Birth Abroad

If you were born in another country to U.S.-citizen parents, then your birth certificate is a Consular Report of Birth Abroad (CRBA). The rules for changing your gender marker on your CRBA are the same as changing your gender marker on your U.S. passport. To learn more about [changing the gender marker on a CRBA](#), visit the State Department's website.

Changing Your U.S. Citizenship and Immigration Services Documents

Important: There are situations where applying for corrected immigration documents can lead to a person being placed into deportation proceedings. Please talk to an experienced immigration lawyer before beginning your legal name and gender change proceedings.

This section of the guide focuses specifically on documents related to permanently immigrating to the United States, but similar policies apply for temporary visas (student, tourist, work). If you are not yet in the United States, you may want to first try to legally change your name and/or gender in your home country, if possible. This way, you can submit all filings in your chosen name and list your birth name as a prior name. For example, if you are applying for asylum, it may be easier if you submit a court order recognizing your chosen name along with your asylum application so that your initial record can include your chosen name. Make sure, though, that you get advice from an immigration attorney to ensure that the wait for a court order won't affect your timeliness for the asylum filing deadline.

However, in some cases, it is very difficult or not possible to get a court order changing name or gender before entering the United States. If you can't start the immigration process with your chosen name and gender legally recognized, you still have other options, but it may take more time and fees. Below, we outline the process of correcting name and gender information on immigration documents.

The form you need depends on which document you want to correct, and not on whether you are legally changing your name, gender, or both. For information about filing fees, please visit the U.S. Citizenship and Immigration Services [\(USCIS\) Filing Fees page](#). Unfortunately, in most cases you aren't able to ask for your fees to be waived. USCIS also unfortunately only issues documents with binary gender markers.

When corresponding with USCIS, it's best to be direct about what you are requesting and why. The officer who reviews your application will likely not be familiar

with issues affecting the trans community. So consider spelling out the issues in the application as clearly as possible. For example, you can use a cover letter that states that you are trans and that you are submitting the form to change your name and/or gender marker on your documents according to USCIS policy.

For general information about the requirements and process for correcting gender markers on USCIS-issued documents, as well as a sample health care provider's letter, please visit the [USCIS Policy Manual Chapter 5](#).

Legal Permanent Resident/Green Card

To correct your Legal Permanent Resident/Green Card, you'll need to file Form I-90. To file this form, please visit the [USCIS Forms page](#). If you are applying for a fee waiver, you'll need to file by mail. If you aren't applying for a fee waiver, you can apply by mail or online. You can find the most [current filing fee for I-90](#) online. You will need to submit a copy of your Green Card and a copy of your court order changing name and/or gender along with your form.

Naturalization/Citizenship Certificate

To correct your Naturalization Certificate or Certificate of Citizenship, you'll need to file Form N-565. To file this form, please visit the [USCIS Forms page](#). You can file this form online or by mail. You can find the [Form N-565 filing fee](#) online. Along with the form, you will need to submit the following:

- **Two** identical passport-style photographs. You can get passport photos taken at drugstores or pharmacies, such as Walgreens or CVS. The Bureau of Consular Affairs posts the [passport photo requirements](#) online.
- Your original Naturalization Certificate or Certificate of Citizenship.
- Documentation of your legal gender change:
 - A certified copy of your court order changing gender, or
 - A government-issued document that affirms your gender, such as your corrected birth certificate, passport, a driver's license; **or**
 - A letter from a licensed health care provider affirming your gender. We include letter templates at the end of this packet, Appendix 1 and 2.

The letter can come from a therapist, nurse practitioner, physician, physician assistant, psychologist, social worker, or counselor. Your health care provider will need to include the following information:

- Their name, address, and phone number;
- Their license or certificate number;
- The state, country, or jurisdiction that issued their license/certificate;
- A statement that they have provided gender-affirming healthcare to you; and
- Their affirmation of your gender identity.

The USCIS states on their website that it may request additional evidence of the person's gender to verify the change. However, a gender-affirming surgery is not required to issue or correct gender markers on immigration documents, and the USCIS should not request any records relating to surgery.

Note on a name change: You may request a change of name at the time you apply for naturalization through the application process. You will be able to confirm this request during the interview process. Your name will then be legally changed when you take the Oath of Allegiance at a naturalization ceremony, and your Certificate of Naturalization will reflect your change of name. To learn more about this process, see the [USCIS Guide to Naturalization](#).

Changing Your Military Service Records

Currently, there is no publicly available guidance from the U.S. Department of Defense on how to correct your information in the Defense Enrollment Eligibility Reporting System (DEERS) and on the DD-214 Military Discharge Record. The National Center for Transgender Equality (NCTE) is trying to get guidance from the Defense Department. Until clear guidance is published, below are our recommendations for how to correct your information on military records.

Changing your name on your DD-214 military discharge record

Congress authorizes the correction of military records when it is considered necessary to correct an error or to remove an injustice. The law that says this is [10 U.S.C. § 1552 \(a\)\(1\)](#). Form DD-214 does not list gender, but it does list name. For most cis people, a service record showing a former name does not reveal sensitive information, but for trans people, disclosure of the former name can out them. You may use this disclosure that you are trans as a basis for asking them to correct your name on the DD-214 in order to correct an injustice.

Each military department has their own Board for Corrections of Military Records. Each Board has the authority to evaluate requested corrections on a case-by-case basis. Generally speaking, to correct your DD-214 Military Discharge Record you will need the following:

- [DD-Form 149, Application for Correction of Military Record](#) (we'll give more guidance for filling out the form below), and
- Evidence to support your name change request.
 - You can learn more about each department's Board for Corrections of Military Records:
 - [U.S. Department of the Army](#)
 - [U.S. Department of the Navy](#)
 - [U.S. Department of the Air Force](#)
 - [U.S. Coast Guard](#).

Requesting a name change with Form DD-149

The DD-149 form gives you the opportunity to make a case as to why having your birth name on your military record is an injustice to you. You should personalize your responses on Form DD-149 according to your situation. Below is sample language to give you an idea of how you can make your case. Because the U.S. Department of Defense has not published written guidance on this issue, this is simply a recommendation.

Question 1.b Name: List your name as shown on your current DD-214.

Question 3 Type of Discharge: Character of service associated with the discharge, such as Honorable, General, Other Than Honorable (OTH), Bad Conduct (BCD) or Entry Level Separation (ELS).

Question 5 I request the following error or injustice in the record be corrected as follows: I request correction of Block 1 of DD-214 to "LAST NAME, First Name, MI" to reflect my current legal name.

Question 6 I believe the record to be in error or unjust for the following reasons: I am a transgender [man/woman/person]. I changed my legal name from [prior name] to [current name] in [year], as evidenced in the attached court order changing name, to align my name with my gender. The appearance of my old name on my DD-214 is an injustice because it discloses my transgender status every time I show my DD-214. This is an injustice due to the social stigma and discrimination that transgender people face. This injustice can be remedied effectively by issuing a corrected DD-214 listing my current legal name. See attached for further explanation.

Question 7 Organization: The command you were serving at when you were discharged. This information is listed in block 8a on your DD-214.

Question 8 Discovery of Alleged Error or Injustice:

a. Date of Discovery – You can put in a date that was important in your transition process, such as an important date of your transition, the date you legally changed

your name or corrected an identification document, or a date when you attempted to use your DD-214 and were outed as trans.

b. If more than three years have passed since the alleged error or injustice was discovered, state why the board should find it in the interest of justice to consider the application, such as: “I was not previously aware that it was possible to remedy this injustice, and I request correction of my record so that I will not continue to have to reveal my transgender status every time I show my DD-214.”

Evidence to submit with Form DD-149

You should submit evidence of your legal name change, such as a certified copy of your court order changing name. We also recommend including as many of the following documents as you have available:

- A U.S. Passport affirming your chosen name and gender identity
- A state driver’s license or ID affirming your chosen name and gender identity
- A court order changing gender
- A signed statement from a licensed physician that you have received gender-affirming healthcare.

Selective Service

All U.S. citizens and permanent residents aged 18 to 25 who were assigned male at birth are required to register with the Selective Service System within 30 days of their 18th birthday, regardless of their gender. This information is compiled by the government to prepare for a military draft, and failure to do so is punishable by a fine and imprisonment. Many federally-funded programs, such as financial aid for higher education and federal employment, require proof of registration as a condition of application. As a result, trans people of all genders may be impacted by the registration process.

People who were assigned female at birth are not required to register with the Selective Service, regardless of their gender. However, if you were assigned female at birth and have legally changed your gender, you may be required to show that you are exempt from registration in order to apply for federal student loans or other government aid and employment programs. To show that you are exempt, you must get a Request for Status Information Letter (SIL) form. You can get the form by contacting the Selective Service at (888) 655-1825 or by downloading the [SIL request form](#) from the Selective Service website. Fill out the “Transgender” section, attach a copy of your original birth certificate, and sign and submit the document. If your birth certificate has been changed, and you do not have the original copy, you should include documents showing that your gender and birth certificate have been legally corrected, such as your court order changing gender. It doesn’t cost anything to get a Status Information Letter, and it will not state why you are exempt, and so it won’t out you. The letter usually takes between four and six weeks to receive.

If you were assigned male at birth, you are required to register with Selective Service, regardless of your gender. You must also inform the Selective Service of any legal name change or change in other record information (for example, a change of address) up until your 26th birthday. Notification must take place within ten days of the change. To correct your Selective Service records, use **one** of the following methods:

- Fill out the Change of Information Form that is sent to you with your Registration Acknowledgement Card;
- Fill out a [Change of Information Form, called an “SSS Form 2,”](#) (technically a change of address form) available at any U.S. Post Office, embassy, or consulate, or online on the Selective Service website; or
- Send a letter to the Selective Service. In the letter, you should include your full name, Social Security number, Selective Service number, date of birth, current mailing address, and name. You must attach official documentation of your name change, such as your court order changing name. Correcting records generally takes four to six weeks, after which you will be mailed a new registration acknowledgement card.

For information about Selective Service Registration requirements, go to the [Conscientious Objectors page](#).

Financial Records

Bank and credit union records

Different banks and credit unions have different policies for correcting your name and/or gender in your records. Some banks may require a court order, while others may just ask you to present official documents that list your chosen name and/or gender identity. You should contact your bank to find out what is required to correct your name and/or gender in your records.

As a practical matter, you may want to consider whether there is any reason to keep your birth name as an additional name on your account. For example, if you receive checks in your birth name from relatives who do not recognize your chosen name, from some kind of annual fund, or some kind of copyright or contract residuals, it could be helpful if your birth name is kept on your account as an “AKA” (also known as). Some people choose to list both their birth and chosen names on their checks for a period of time.

Credit cards and agencies

Each credit card provider has a different policy regarding what is required to change an individual’s name on their records. You should talk to your credit card provider to find out what is required.

Credit reports issued by credit agencies regularly report prior and chosen names. This is because your birth and chosen names are linked by your Social Security number, which credit reporting agencies have access to. It may be possible to contact a credit agency (Experian, Equifax, or TransUnion) and explain that reports containing both names may put you in danger or violate your privacy. However, without instructing a credit agency not to include this information, they will likely continue to do so. The reason is that name usage is very valuable information for creditors and may sometimes prevent lending to individuals with “bad” credit under a different name. Credit agencies

also believe that including all of a person's credit information, including prior names and addresses, helps combat identity theft.

You may want to check the actual appearance of the reports issued by each of the credit agencies. Those reports may have different amounts of information, and it is possible that one may not list both your names. It is also possible that if you can show a credible fear of violence and harassment, you may be able to get a court order stopping the credit agencies or other information agencies from listing both of your names. You may want to check with a lawyer who has experience in this area to see if it is possible.

Credit bureaus are likely to keep your birth name on your records for a period of time, but credit reports are not supposed to show information older than seven years. It is not necessary to change your name directly with credit bureaus. Instead, you can simply correct your name with your credit card company and other lenders, and the information will be updated automatically at the next cycle. Your full credit history will appear, and your credit score will not be affected.

The legality of a credit reporting agency distributing an individual's birth name is an open question. As credit reporting agencies can legally report cis people's prior names, it likewise may be legal for them to report your prior name. However, this practice may understandably cause concern. For [more information about your credit reporting rights](#), please visit the Federal Trade Commission and the [National Consumer Law Center](#).

If you want to check your credit report after you have legally changed your name, federal law provides that you are entitled to one free credit report every twelve months. The best way to check your credit report for free is at www.annualcreditreport.com.

Changing Your School Records

School districts, colleges, and universities have different policies regarding name changes on official school records. If you are currently enrolled in grade school, a vocational program, college, or university, we recommend that you request a correction

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to your school records as soon as you get your court order changing name. All Montana public educational institutions are required to recognize your court order.

Family Educational Rights and Privacy Act

If you'd like to correct your school records, you can do so under the Family Educational Rights and Privacy Act (FERPA). FERPA is a federal law that was put into place to protect the privacy of a student's records. Under this law, students and graduates have the right to try to correct their school records if their records are "inaccurate, misleading, or in violation of the student's rights of privacy." If you are under 18 and want to change your school records, FERPA requires that your parent(s) or legal guardian(s) make the request. However, when you turn 18 or attend school beyond the high school level, these rights will go to you, and your parents won't be able to request changes to your records anymore.

The Lambda Legal Defense and Education Fund (Lambda Legal) is a great resource for information on FERPA and on how to request record changes. You can visit their [Transgender Advocate's Guide to Updating and Amending School Records](#). Lambda Legal recommends first trying to ask a safe faculty member for help on changing your records. If you don't know of someone who you would feel comfortable approaching for assistance, Lambda Legal then suggests sending a letter to your school's administration explaining how important it is for them to correct your educational records as a trans person. You can find a sample letter in their Guide to Updating and Amending School Records. With your letter, you may want to attach some model policies or guidelines on supporting trans students that are used by other school districts or institutions, such as the [Gay, Lesbian & Straight Education Network \(GLSEN\)'s model policy](#). Lambda Legal also provides an informational packet of issues affecting the trans community, which you could also include with your letter to show your school administrators how significant changing your records can be to your safety and affirmation as a trans person. You can access that packet in [Lambda Legal's Transgender Rights Toolkit](#).

If your school refuses to correct your educational records, they may be violating FERPA. If this happens to you, you can file a complaint with the Family Policy Compliance Office. You are also allowed to request a formal hearing. If you request a hearing, you'll need to provide written evidence that shows why changing your records is important and why your records are incorrect and misleading. Your school will change your records if your hearing is successful, and if your hearing isn't successful, you are allowed to make a statement about why the hearing's ruling was wrong. Your school will then be required to put your statement into your official records.

The Department of Education also has [several guides to FERPA](#). You can [read FERPA for yourself online](#). The citation for the law is 20 U.S.C. § 1232g; 34 C.F.R. Part 99.

Changing Other Records

Although people in the U.S. should be able to correct their name and gender on most documents and records, this does not mean that their former legal information is entirely confidential. Below, we provide a few key examples of when your former name may become available to an interested party. The bottom line is that you may not always be able to choose when, or if, to disclose your former name and sex assigned at birth.

Job applications that ask for former names

It is very common for job applications to ask individuals to list any other names that they've gone by in the past, and security clearance job applications may even require it. If you are asked about whether you have used former names and do not wish to disclose them, you may want to seek legal advice from an attorney. That said, sometimes businesses or organizations make exceptions for certain people whose safety may be put at risk if they list their former names (for example, survivors of domestic or intimate partner violence). A strong argument can be made as to why there should be safety exceptions for trans applicants, too, and so you may want to contact the business or organization you are applying to and find out what kind of exceptions they do or don't have. The Rochester Institute of Technology provides a fairly good resource that discusses different employment process scenarios for trans people, which you can access in their [FAQs for Trans Job Seekers](#).

Legal obligation to share aliases with officials

Your legal obligation to share your alias(es) with officials, such as a judge or attorney in court, can vary. An alias is an additional name that someone often goes by that isn't their legal name. It can also be considered a fictitious name. Therefore, your birth name shouldn't be considered an alias. However, officials may have different opinions on what an alias is, and some may actually consider a former name to be an alias. So, if you will be testifying in court or speaking with officials, it may be a good idea

to talk to an attorney first and share with them that you are trans and have a former name, if you feel safe doing so. This way, if you are asked any questions regarding an alias or former name, your attorney will be prepared to answer for you and object to questions about things that are not relevant to the proceedings.

Conclusion

We hope you have found this guide useful. This guide was created to help you navigate the often confusing process of obtaining identification documents that assert who you are. It is designed to be used without the assistance of an attorney, but in some cases, it may be quickest or easiest to work with one. Please remember that the information presented in this guide should not be considered legal advice. If you have any questions about your particular situation, please contact Montana Legal Services Association at 1-800-666-6899 or mtlsa.org.

Acknowledgements

This guide has been created by Montana Legal Services Association and made possible thanks to a grant from the Pride Foundation. You can learn more about the [Pride Foundation](#) on their website. This guide has been patterned after the guide, “ID Please!” written by Stephen Chong and Meredith Wallis while they were law clerks at [Transgender Law Center \(TLC\)](#) during the summer of 2006. You can learn more about the TLC on their website. Their guide was patterned after similar guides from Pennsylvania and Florida created by Pennsylvania Equality Advocates and the National Center for Lesbian Rights, respectively. Additional materials were gathered and updated from the Gender Expansion Project in Montana and the National Center for Transgender Equality. You can learn more about the [National Center for Transgender Equality](#) on their website as well.

<p>This pamphlet is meant to give basic legal information, not legal advice about your problem. The law changes often and each case is different. We recommend you talk to an attorney about your legal problem.</p>

Take Action

Legal Forms

- [Petition for Name Change only \(Adult, Minor, Sealed\)](#)
- [Petition for Name and Gender Change for an Adult \(write-in-the-blank\)](#)
- [Petition for Name and Gender Change for a Minor \(write-in-the-blank\)](#)
- [Sample Health Care Provider Letters to Correct Your Gender on Federal Documents](#) (also in Appendices 1&2 of this packet)

Legal Help

- The State Bar Lawyer Referral Service may provide you with contact information for attorneys who provide the type of assistance you are seeking, for a fee. You can contact the State Bar Lawyer Referral Service at (406) 449-6577 or montanabar.org.
- Montana Legal Services Association (MLSA) provides free civil, non-criminal legal help to eligible clients. Learn more about [how to apply for free legal help in Montana](#).
- If you qualify for help from MLSA, you may be able to get [free legal advice from a volunteer attorney by email using Ask Karla](#).
- Contact your [nearest Self Help Law Center](#) for free legal information and forms.

Tribal Court

- [Tribal Court Resources for Name and Gender Change](#)

APPENDIX 1: Sample Physician Letter to Correct Federal Document(s)

[On office letterhead providing physician's address and telephone number]

I, (physician's full name), (physician's medical license or certificate number) am a licensed physician in (issuing U.S. State/Foreign Country of medical license/certificate), (DEA registration number or comparable foreign equivalent). I am the physician of (name of patient), born on (date of birth of patient), with whom I have a doctor/patient relationship and whom I have treated (or "with whom I have a doctor/patient relationship and whose medical history I have reviewed and evaluated").

(Name of patient) has had appropriate clinical treatment for gender transition to the new gender, (specify new gender, male or female).

I declare under penalty of perjury under the laws of the United States that the forgoing is true and correct.

Signature of Physician

Typed Name of Physician

Date

APPENDIX 2: Health Care Certification

It is very important to have the exact language that is used below for your letter. It may be a good idea to print out a copy of this letter or email this to your provider so that the language is exact.

[On your treating provider's letterhead]

[Date]

To Whom It May Concern:

I am a licensed [counselor, nurse practitioner, physician, physician assistant, psychologist, social worker, or therapist], and I have treated or evaluated [patient's name] in relation to [patient's name]'s gender. In my professional opinion, [patient's name]'s gender is consistent with a designation of [male or female]. Patient's

Information: Full Name: Date of Birth:

Health Care Professional's Information: Full Name: Organization (if any): Address: Phone Number: License Type: [counselor, nurse practitioner, physician, physician assistant, psychologist, social worker, or therapist] License Number: Issuing State, Country, or other Jurisdiction of License:

Sincerely,

[Health Care Professional's Signature]

[Health Care Professional's Printed Name]