

# Indiana Legal Services, Inc.

*Ensuring Equal Access to Justice*



MARCH  
2020

## LEGAL NAME CHANGES: MINOR FORMS AND GUIDE

LGBT Project, Indiana Legal Services  
317-829-3180 [lgbtgroup@ilsa.net](mailto:lgbtgroup@ilsa.net)

## **WHAT IS IN THIS PACKET?**

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This packet includes the documents you need to bring to the court to start (called filing) a name change case for you child. **Note:** A 17-year-old can file for a name change as an adult, without parental consent. Some of these documents you sign (👉) and some are for the Judge to sign. The documents included are:

### ✓ **Name change paperwork**

- Appearance by self-represented party* 👉

This form tells the court that you are representing yourself and what address they should send documents to.

- Name Change Petition* 👉

This has all the things the law says you must tell the court for a name change, including that you are not changing your child's name to avoid creditors.

- Verified Consent to the Name Change of Minor*

The Name Change law says that the child's other parent must consent to the name change and be given notice of the hearing. The other parent signs this form to show that they consent. If the other parent will not consent, contact us at (317) 829-3180.

**or**

- Affidavit of Diligent Search*

If you don't know how to contact your child's other parent, the law requires you to make a diligent attempt to find them so that you can give them notice of the hearing. If you have tried and haven't been able to find the other parent, sign this affidavit and bring it to your court hearing.

- Order Setting Hearing*

This order lets you know what date/time your name change hearing will be. After the Judge sets a date/time, the clerk will mail you a copy of the order.

- Name Change Order*

This is what you want the Judge to sign showing that your child's name has been changed.

### ✓ **Fee Waiver (if you qualify)**

- Affidavit of Indigency and Request for Fee Waiver* 👉

This asks the Judge to let you file your case for free because you cannot afford the \$157 fee. Sign this, where flagged, in your current legal name. Some courts may require you to fill out an extra form that details your income and assets.

- Order on Fee Waiver Request*

The Judge signs this order after they waive the fees.

### ✓ **Publication Waiver and Sealing Request**

Usually in a name change, you are required to publish notice of the name change in a newspaper and the court records are public. However, court rules allow you to ask that the publication requirement be waived, and the records be sealed (not available to the public) for your safety.

- Verified Request to Prohibit Public Access* 📌  
This asks the Judge to waive the publication requirement of the name change and make your case confidential (private). This is where you should detail all the reasons you would feel unsafe having your child's name change made public.
- Exhibit A: Memorandum of Law*  
This memo explains to the Judge why it can be unsafe for trans people to be outed, and they should make your case confidential (private).
- Public Notice of Hearing*  
The law says that if you ask a judge to make your case confidential, there must be a public hearing on that request. To let the public know about the hearing, the court posts this notice in the courthouse before the hearing. This notice does not get published in the newspaper.

**HOW DO I FILL OUT THESE FORMS?**

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You should print out the packet and fill out every page.

The first page of each form has a box on the top called a caption. You should fill out the county information and your child's legal name on each form but leave the case number blank.

<p><b>STATE OF INDIANA</b></p> <p><b>COUNTY OF</b> <u>MONROE</u> <i>(county you live in)</i></p> <p>IN RE THE CHANGE OF NAME OF:</p> <p><u>Ashley Crystal Smith</u> <i>(current legal name)</i></p> <p>Petitioner</p>	<p><b>IN THE</b> <u>MONROE</u> <b>COUNTY COURT</b> <i>(county you live in)</i></p> <p><b>Case Number:</b> SAMPLE</p>
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*Child's current legal name:* Your child's name that you want to change from.

*Mailing Name:* The name you want the court to use when mailing you documents.

*Signature:* Sign the paperwork on the line here.

*Judicial Officer:* This should be left blank because it is a place for the judge to sign.

*Check boxes:* Where there are check boxes, you should check any box that is relevant, or if no box is, check other and then then give a brief explanation.

1. My petition is made in good faith and not for fraudulent purposes. I want to change my name to Aiden Michael Smith

So that my name matches my gender identity and presentation  Other \_\_\_\_\_

SAMPLE

We hope these forms are simple to use, but if you have questions, please contact the LGBT project at 317-829-3180 or [lgbtgroup@ilsin.net](mailto:lgbtgroup@ilsin.net).

**HOW DO I FILE THESE FORMS?**

**Where do I file?**

You must file your case with the county clerk in the county in which you live. For contact information for the Clerk of Court in your county, visit: <http://www.in.gov/judiciary/2794.htm>.

**How much does it cost?**

As of January 2020, the current filing fee is \$157. If you cannot afford the fee, you can request that the Judge allow you to file for free or a reduced amount. This form is called an Affidavit of Indigency and Fee Waiver Request. If you make a fee waiver request that is denied, please contact the LGBT Project of Indiana Legal Services at 317-829-3180 or [lgbtgroup@ilsin.net](mailto:lgbtgroup@ilsin.net) before you pay a fee.

**Will my case be public?**

Yes. Everything you file in your name change cases are publicly available on <https://public.courts.in.gov/mycase>. If you feel your child would be unsafe having your case be made public, court rules allow you to ask that the records be sealed (not available to the public) for your child’s safety. This is called an Access to Court Records request.

**What do I file?**

You should bring the original of the forms in this packet to the clerk, who will stamp the forms and assign a case number, and give you back a copy of the forms

- ✓ **Name change paperwork**
  - Appearance by Self-Represented Party*
  - Name Change Petition*
  - Verified Consent to the Name Change of Minor*, if the other parent has already signed it.
  - Order Setting Hearing*
  - Name Change Order*
  
- ✓ **Fee Waiver (if you qualify)**
  - Affidavit of Indigency and Request for Fee Waiver*
  - Order on Fee Waiver Request*

✓ **Publication Waiver and Sealing Request (optional)**

Usually in a name change, you are required to publish notice of your name change in a newspaper and the court records are public. However, court rules allow you to ask that the publication requirement be waived, and the records be sealed (not available to the public) for your child's safety.

- Verified Request to Prohibit Public*
- Exhibit A: Memorandum of Law*
- Public Notice of Hearing*

**PUBLISHING IN A NEWSPAPER (if a sealing request is not made)**

If you don't ask that the records of your case be made private and the publication requirement waived, before your hearing, you will need to place an ad in a newspaper in your county. The ad must run once a week for three weeks and the third ad must be at least 30 days before your hearing. After the ad runs, the newspaper will send you proof of publication, which you should bring to your hearing or return to the clerk.

How publication works and what needs to be published varies from county to county, so you should ask the clerk what the procedure is where you live. Generally, when your hearing date is set, the clerk will stamp your Notice of Petition for Change of Name. You can then contact the newspaper in your county authorized to run legal ads and give them the stamped Notice with your hearing date and payment.

**COURT HEARINGS**

After you file the paperwork, the clerk will mail you an order letting you know when your hearing is. The hearing will be in the County Court in the county where you live. The hearing notice will let you know what court and in which courtroom.

Some Counties, like Marion, will have a hearing on your request to keep the records private the same day as your name change hearing, while a few others will schedule two hearings. You should bring the following to your hearing(s):

- Your Indiana photo ID and your child's, if they have one;
- Original or certified copy of your child's Birth Certificate;
- Your child's US passport, if they have one;
- Letter from your child's doctor or therapist about their transition, if they have one.
- Signed *Consent to the Name Change of Minor* or signed *Affidavit of Diligent Search*
- If your name has changed and is not the same one printed on your child's birth certificate, documents showing how your name changed (such as marriage license, divorce decree, or name change order).
- Publisher's Affidavit (if you published)

At the hearing, the Judge gets information from you about why you want to keep the records of the case private and why you want to change your child's name. The Judge will likely just ask you about all the information in the documents you gave to the court. The parts of the hearing will be:

**1. Why the court should seal the record and waive publication (optional)**

The issue at this hearing is why the court should seal the record and waive publication. You will need to show the judge that your child would face a significant risk of substantial harm if their name change was published or made public. You can show this by telling the judge about any violence or discrimination you have experienced or witnessed, or why you fear for your child's safety should they be outed as trans.

-and-

**2. Why the court should change your child's name.**

For name changes, you need to show the Judge that you are not changing your child's name to avoid creditors.

**AFTER THE HEARING**

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After the hearing, the Judge should sign the Name Change Order you submitted when you started your case. When this Order is signed, your child's name is legally changed! Sometimes you get the order on the day of the hearing, other times the court will mail you a copy after they process the paperwork. We recommend getting 2-3 certified copies of the order from the clerk.

A guide from Indiana Legal Services about updating Indiana IDs is available [here](#). For information about updating put of state IDs, please visit the [National Center for Transgender Equality's Document Center](#).

STATE OF INDIANA

IN THE \_\_\_\_\_ COUNTY COURT

(county you live in)

COUNTY OF \_\_\_\_\_

(county you live in)

Case Number:

IN RE THE CHANGE OF  
NAME OF:

\_\_\_\_\_

(child's current legal name)

A minor.

**APPEARANCE BY SELF-REPRESENTED PERSON IN CIVIL CASE**

1. My name is \_\_\_\_\_ and I am initiating this case and am representing myself.
2. My contact information for receiving legal service of documents and case information is required by Court Rules:

Mailing Address:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Email Address: \_\_\_\_\_

Phone: \_\_\_\_\_

Fax: \_\_\_\_\_

3. This is a MI case type as defined in Administrative Rule 8(B)(3).

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

STATE OF INDIANA

IN THE \_\_\_\_\_ COUNTY COURT

COUNTY OF \_\_\_\_\_  
(county you live in)

(county you live in)

Case Number:

IN RE THE CHANGE OF  
NAME OF:

\_\_\_\_\_,  
(child's current legal name)

A minor.

**AFFIDAVIT OF INDIGENCY AND REQUEST FOR FEE WAIVER**

I, \_\_\_\_\_ state:  
(current legal name)

1. I intend to file a Petition for Change of Name for my minor child and I believe that I have a case with merit.
2. I cannot pay any of the filing fees, costs, security, bond, record preparation charges, or other expenses of this action because I do not have sufficient income or resources.
3. I have only minimal assets.

I affirm under penalties for perjury that the foregoing representations are true to the best of my knowledge and belief.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name



STATE OF INDIANA

IN THE \_\_\_\_\_ COUNTY COURT

(county you live in)

COUNTY OF \_\_\_\_\_

(county you live in)

Case Number:

IN RE THE CHANGE OF  
NAME OF:

\_\_\_\_\_

(child's current legal name)

A minor.

**ORDER ON FEE WAIVER**

The Court, having reviewed Petitioner's Verified Affidavit of Indigency, issues the following

Order:

1. Petitioner has complied with I.C. § 33-37-3-2(a) and may file this Case without the pre-payment of any filing fees, costs, security, bond, or other expenses.
2. The Court will determine whether any or additional costs are to be paid at a preliminary or final hearing in this case.

ORDERED \_\_\_\_\_

\_\_\_\_\_  
Date

\_\_\_\_\_  
JUDICIAL OFFICER

**Distribution:**

\_\_\_\_\_  
(mailing name)

Mailing Address:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

STATE OF INDIANA

IN THE \_\_\_\_\_ COUNTY COURT

COUNTY OF \_\_\_\_\_  
(county you live in)

(county you live in)

Case Number:

IN RE THE CHANGE OF  
NAME OF:

\_\_\_\_\_,  
(child's current legal name)

A minor.

**VERIFIED PETITION FOR CHANGE OF NAME**

I, \_\_\_\_\_ respectfully petition  
(parent's name)  
this Court to change my child's name, pursuant to Indiana Code §34-28-2-1. In support of this  
petition, I state:

1. I am the  parent  guardian of the child whose name and gender marker are sought  
to be changed.

2. (check all that apply)  
 The child has no other legal parent. There is no other parent on the birth certificate  
and no parent has been established through court order.

The non-petitioning parent is \_\_\_\_\_.

The non-petitioning parent consents to the child's name change. I will bring  
a signed consent from the non-petitioning parent to the hearing on this  
petition.

The non-petitioning is deceased.

Consent from the non-petitioning parent is not required because they  
knowingly fail to provide for the care and support of the child as required  
by a judicial order of child support. They owe approximately  
\$\_\_\_\_\_ in child support arrears.

Consent from the non-petitioning parent is not required because they have abandoned the child and has evidenced their intent to forego their parental rights and responsibilities. For example,

They make only token efforts to support or to communicate with the child.

They do not celebrate or acknowledge the child's birthday by calling, writing or giving presents.

In the last year, they have seen the child \_\_\_\_\_ times.

\_\_\_\_\_  
\_\_\_\_\_

3. The child's current legal name is \_\_\_\_\_.

4. The child's date of birth is \_\_\_\_\_.

5. The child and I reside at:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

6. *(check one)*

The child does not have an Indiana Identification card.

The child's Indiana  ID Card  Driver's license number is \_\_\_\_\_.

7. *(check one)*

The child has not been known by any other legal names.

Previously, the child's legal name was \_\_\_\_\_

and was changed via  adoption  \_\_\_\_\_.

8. The child was born in \_\_\_\_\_ and is a United States Citizen.  
*(City, State)*

9. *(check one)*

The child does not hold a valid US passport

The child's passport number is \_\_\_\_\_.

10. The child has never been convicted of a felony.

11. The child is not a registered sex or violent offender who is barred by I.C. § 11-8-8-16(a) from changing their name.
12. My petition is made in good faith and not for fraudulent purposes. I want to change the child's name to \_\_\_\_\_

So that the child's name matches their gender identity and presentation  Other

\_\_\_\_\_  
\_\_\_\_\_

THEREFORE, I respectfully request that this Court grant my Petition for Change of Name, and for all other just and proper relief.

I affirm under penalties for perjury that the foregoing representations are true to the best of my knowledge and belief.<sup>1</sup>

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

<sup>1</sup> Notarization is not required under Trial Rule 11(B). Trial Rule 1 provides that the trial rules, not Indiana Statutes, govern procedure and practice in all civil suits. See also *Yang v. Stafford*, 515 N.E.2d 1157 (Ind. Ct. App. 1987).

STATE OF INDIANA

IN THE \_\_\_\_\_ COUNTY COURT

COUNTY OF \_\_\_\_\_  
*(county you live in)*

*(county you live in)*

Case Number:

IN RE THE CHANGE OF  
NAME OF:

\_\_\_\_\_,  
*(child's current legal name)*

A minor.

**VERIFIED CONSENT TO THE NAME CHANGE OF MINOR**

I, \_\_\_\_\_ affirms under  
*(non-petitioning parent's name)*

penalties of perjury that the following representations are true:

1. I am the natural parent of \_\_\_\_\_,  
the child whose name is sought to be changed.
2. I consent to my child's name being changed to  
\_\_\_\_\_.
3. I waive service of summons and notice of hearing on said name change petition.

I affirm under penalties for perjury that the foregoing representations are true to the best of my knowledge and belief.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

STATE OF INDIANA

IN THE \_\_\_\_\_ COUNTY COURT

COUNTY OF \_\_\_\_\_  
(county you live in)

(county you live in)

Case Number:

IN RE THE CHANGE OF  
NAME OF:

\_\_\_\_\_,  
(child's current legal name)

A minor.

**AFFIDAVIT OF DILIGENT SEARCH**

I, \_\_\_\_\_, affirm under  
(parent's name)

penalties of perjury that the following representations are true:

1. I am the Petitioner in the above-entitled action and have personal knowledge of the matters stated herein.
2. I am the  mother  father  guardian of the minor child.
3. I am requesting to change the name of the Minor Child be changed from \_\_\_\_\_ to \_\_\_\_\_.
4. The non-petitioning parent's name is \_\_\_\_\_.
5. I am unaware of the whereabouts of the non-petitioning parent.
6. I have made a diligent search and cannot find the whereabouts of the non-petitioning parent.

WHEREFORE, I affirm under the penalties of perjury that the foregoing representations are true.

I affirm under penalties for perjury that the foregoing representations are true to the best of my knowledge and belief.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

STATE OF INDIANA

IN THE \_\_\_\_\_ COUNTY COURT

(county you live in)

COUNTY OF \_\_\_\_\_

(county you live in)

Case Number:

IN RE THE CHANGE OF  
NAME OF:

\_\_\_\_\_

(child's current legal name)

A minor.

**AFFIRMATION OF SERVICE**

I, \_\_\_\_\_ affirm under  
(person who gave other parent the documents)

penalties of perjury that the following representations are true:

1. I served a copy of the petition on \_\_\_\_\_, the  
non-petitioning parent by:

Mailing a copy of the petition by certified mail, return receipt to

\_\_\_\_\_, which is the  
non-petitioning parent's  home  work address.

The return receipt  is attached  is not attached because it was not returned.

Personally giving a copy of the petition to the non-petitioning parent.

Leaving a copy of the petition at the non-petitioning parent's residence and sending  
a copy of the petition via first class mail to their last known address,

\_\_\_\_\_.

2. I served the other parent on \_\_\_\_/\_\_\_\_/20\_\_ at \_\_\_\_:\_\_\_\_ am/pm.

I affirm under penalties for perjury that the foregoing representations are true to the best of my  
knowledge and belief.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature

STATE OF INDIANA

IN THE \_\_\_\_\_ COUNTY COURT

COUNTY OF \_\_\_\_\_

(county you live in)

(county you live in)

Case Number:

IN RE THE CHANGE OF  
NAME OF:

\_\_\_\_\_

(child's current legal name)

A minor.

**ORDER SETTING HEARING**

The Court, having reviewed Petitioner's Verified Petition for Change of Name filed in this matter AND the Court, having duly examined said motion, hereby sets the matter for hearing on

\_\_\_\_\_.

ORDERED \_\_\_\_\_

\_\_\_\_\_

JUDICIAL OFFICER

**Distribution:**

\_\_\_\_\_

(mailing name)

Mailing Address:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_



STATE OF INDIANA

IN THE \_\_\_\_\_ COUNTY COURT

COUNTY OF \_\_\_\_\_  
(county you live in)

(county you live in)

Case Number:

IN RE THE CHANGE OF  
NAME OF:

\_\_\_\_\_,  
(child's current legal name)

A minor.

**ORDER ON VERIFIED PETITION FOR  
CHANGE OF NAME**

The Court, having reviewed the Verified Petition for Change of Name and the evidence presented at the hearing now finds:

1. Petitioner has followed all requirements of Indiana Code § 34-28-2 *et seq.* for change of name and the child is not statutorily barred from a legal name change.
2. The child's date of birth is \_\_\_\_\_.
3. The child's current legal name is \_\_\_\_\_.

**IT IS THEREFORE ORDERED** that Petitioner's Petition for Change of Name is GRANTED.

The child's legal name is hereby changed to \_\_\_\_\_

**IT IS FURTHER ORDERED** that all agencies and institutions issuing the child identity documents are directed to amend such documents consistent with this order, including but not limited to the Indiana State Department of Health and its subdivisions.

**ORDERED** \_\_\_\_\_

\_\_\_\_\_  
JUDICIAL OFFICER

STATE OF INDIANA

IN THE \_\_\_\_\_ COUNTY COURT

(county you live in)

COUNTY OF \_\_\_\_\_

(county you live in)

Case Number:

IN RE THE CHANGE OF  
NAME OF:

\_\_\_\_\_

(child's current legal name)

A minor.

**VERIFIED REQUEST TO PROHIBIT PUBLIC ACCESS AND WAIVE PUBLICATION  
PURSUANT TO RULES ON ACCESS TO COURT RECORDS**

I, \_\_\_\_\_ respectfully petition  
(parent's name)  
petitions this Court pursuant to Indiana Access to Court Records Rule 6 to exclude the case from public  
access and waive the publication requirements of Ind. Code § 34-28-2-3. In support of this request, I  
state:

1. I am requesting the court change my child's legal name because they are  transgender   
gender non-conforming  nonbinary  \_\_\_\_\_ and I want their name to  
accurately reflect their gender identity and presentation.
2. I am aware of the high rates of violence, discrimination, and invasion of privacy against  
transgender, gender non-conforming and nonbinary people in Indiana and nationwide and I  
fear that if the public knows about my child's gender identity, they will personally experience  
violence, discrimination and an invasion of privacy.
3. I fear that if I must publish my child's name change in a newspaper, or if someone could find  
my child's name change request and address on-line, they could be targeted for discrimination  
and/or violence based on their gender identity.

4. I also fear for my child's safety because of their personal experience with violence and discrimination. They have personally suffered  physical harm  discrimination  harassment  bullying  threats of violence  other \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

because of their gender identity and presentation.

5. I am attaching a Memorandum of Law prepared by Indiana Legal Services an Exhibit.
6. There are no other parties or interested persons to this action.

THEREFORE, I respectfully request requests that pursuant to Access to Court Records Rule 6 and 5, this case be excluded from public access by sealing the record of this proceeding and by waiving the publication requirements of Indiana Code § 34-28-2-3(a).

I affirm under penalties for perjury that the foregoing representations are true to the best of my knowledge and belief.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

**MEMORANDUM OF LAW IN SUPPORT OF**  
**VERIFIED REQUEST TO PROHIBIT PUBLIC ACCESS AND WAIVE**  
**PUBLICATION PURSUANT TO RULES ON ACCESS TO COURT**  
**RECORDS**

1. This memorandum of law was drafted by Indiana Legal Services' LGBT Project to support self-represented litigants who fear for their safety to a request pursuant to the Rules on Access to Court Records<sup>2</sup> to waive publication and sale the records of their case.
2. Name change cases are subject to the public access rules containing in Indiana Rules of Court Administration 9. Ind. Code § 34-28-2-2.5(b).
- I. HAVING TO PUBLISH NOTICE IN A NEWSPAPER AND HAVING THEIR CASE PUBLICLY AVAILABLE PUTS PETITIONER AT SUBSTANTIAL RISK OF HARM.**
3. The Court of Appeals is clear that the evidence of heightened risk of harassment, violence, and homicide to transgender individuals nationally and in Indiana is enough to demonstrate significant risk of harm warranting prohibiting public access. *In re Name Change of M.E.B.*, 19A-MI-118 at ¶ 11 (June 21, 2019).
4. The purpose of the Access to Court Records Rule is, among other things, to minimize an individual's risk of injury. The Commentary to the Rule recognizes "that unrestricted access to certain information in Court Records could result in an unwarranted invasion of personal privacy or unduly increase the risk of injury to individuals and businesses." Ind. Access to Court Records 1, cmt. ". . . The goal of the Rules on Access to Court Records is proactive; it seeks to *prevent* harm. To force petitioners to wait until they have already experienced that harm would vitiate the purpose of the rule." *Id.*; accord *In Re K.H.*, 127 N.E.3d 257 (Ind. Ct. App. 2019)
5. A.C.R. Rule 6 requires Judges to look at the totality of the circumstances to evaluate if a substantial risk of harm exists and to proactively protect applicants' safety. Rule 6 does not require that

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<sup>2</sup> The Access to Court Records Rules replaced Administrative Rule 9 on January 1, 2020. Rules on Access to Court Records moved portions of Administrative Rule 9 and placed them in a more organized manner. A.C.R. Rule 6 is Administrative Rule 9(G)(4) without change.

Plaintiff endure targeted threats, violence, or abuse before granting temporary and permanent sealing and a publication waiver. *In Re M.E.B.*, 126 N.E.3d 932 at 934 (Ind. Ct. App. 2019); *In Re K.H.*, 127 N.E.3d 257 (Ind. Ct. App. 2019)

6. Part of the circumstances to consider is the reality that transgender people are disproportionately impacted by violence and homicide. The United States is the third most deadly country for trans people.
7. Between 2013 and 2015, hate crimes against transgender people increased 239 percent, with LGBT people more likely than any other minority group to experience hate crimes in the United States. Haeyoung Park and Iaryna Mykhyalyshyn, *L.G.B.T. People Are More Likely to Be Targets of Hate Crimes Than Any Other Minority Group*, N.Y. TIMES, June 16, 2016.
8. The systemic violence transgender people experience neither begins nor ends with hate crimes, physical assault or homicide. Transgender people are more likely than the general population to experience discrimination, harassment, and violence in every facet of life, including family relations, education, employment, housing, public accommodations, obtaining accurate identification documents, and accessing adequate and appropriate medical treatment. . *See e.g.* James *et al.*, *The Report of the 2015 U.S. Transgender Survey* (2016), available at <http://www.ustranssurvey.org/reports/>; National Coalition of Anti-Violence Programs, *A Report from the National Coalition of Anti-Violence Programs: Lesbian, Gay, Bisexual, Transgender, Queer, and HIV-Affected Hate Violence in 2013* (2014), available at [http://avp.org/wp-content/uploads/2017/04/2013\\_ncavp\\_hvreport\\_final.pdf](http://avp.org/wp-content/uploads/2017/04/2013_ncavp_hvreport_final.pdf); Jaime M. Grant *et al.*, *Injustice at Every Turn: A Report of the National Transgender Discrimination Survey 2* (2011), available at [http://www.thetaskforce.org/downloads/reports/reports/ntds\\_full.pdf](http://www.thetaskforce.org/downloads/reports/reports/ntds_full.pdf).
9. This is no less true in the state of Indiana. A survey of transgender people in Indiana conducted in conjunction with the National Transgender Discrimination Survey found that 73% of respondents reported harassment in their K-12 school; and 27% reported physical assault. National Center for

Transgender Equality and the National Gay and Lesbian Task Force, *Findings of the National Transgender Discrimination Survey: Indiana Results* (2015), available at [http://www.transequality.org/sites/default/files/docs/usts/USTSINStateReport% 281017%29.pdf](http://www.transequality.org/sites/default/files/docs/usts/USTSINStateReport%201017%29.pdf).

10. In another study of Transgender Hoosiers, 74% of respondents reported experiencing harassment or mistreatment on the job. Christy Mallory and Brad Sears, *Employment Discrimination Based on Sexual Orientation and Gender Identity in Indiana*, August 2017, available at [https://williamsinstitute.law.ucla.edu/research/in\\_discrimination\\_ aug\\_2017/](https://williamsinstitute.law.ucla.edu/research/in_discrimination_aug_2017/).
11. In 2016, an Indiana transgender woman was shot in the face while their attacker yelled anti-transgender sentiments. *Alleged Hate Group Member Charged in Shooting of Trans Woman in Indiana*, *The Advocate* (July 17, 2016), available at <http://www.advocate.com/transgender/2016/7/17/alleged-hate-group-member-charged-shooting-trans-woman-indiana>. Across the nation, violence against transgender individuals is on the rise. Maggie Astor, *Violence Against Transgender People Is on the Rise, Advocates Say*, N.Y. TIMES, Nov. 9, 2017.
12. Though the data on violence is staggering, the actual violence against transgender people is likely much worse, due to the underreporting of crimes. *See. E.g.* Lucas Waldron, *Deadnamed: The way cops in Jacksonville and other jurisdictions investigate the murders of transgender women adds insult to injury and may be delaying justice*, available at <https://www.propublica.org/article/deadnamed-transgender-black-women-murders-jacksonville-police-investigation>; Emma Keith et. al, *Lack of trust in law enforcement hinders reporting of LBGTQ crimes*, available at <https://www.publicintegrity.org/2018/08/24/22138/lack-trust-law-enforcement-hinders-reporting-lbgtq-crimes>.
13. The Court of Appeals is clear that these significantly higher rates of discrimination, harassment, and violence experienced by transgender people as compared to cisgender people (people who are not transgender) is enough to satisfy that there was clear and convincing evidence that the

Petitioner would face a significant risk of substantial harm if their transgender status was disclosed to the public. *In re Name Change of A.L.*, 81 N.E.3d 283, 291 (2017).

14. The Court of Appeals rejected the trial court's reasoning that Rule 9 was not applicable because the petitioner had not shown they were subjected to any specific threats or violence because of their gender identity. *Id.* At 290-91. Trial courts have no jurisdiction to disregard appellate precedent. *Cf. Ross v. State*, 877 N.E.2d 829, 835 (Ind. Ct. App. 2007) (appellate precedent is binding on trial courts), *trans. denied*.
15. There—on an evidentiary record substantively identical to that submitted here—the court found that the significant risk of harm came from the general public being able to access, on the internet, in perpetuity, information about petitioner being transgender.<sup>3</sup> *Id.*

## **II. COURT DOCUMENTS IDENTIFY PETITIONER AS TRANSGENDER, WHICH UNLAWFULLY DISCLOSES CONFIDENTIAL MEDICAL INFORMATION IN VIOLATION OF A.C.R. 5(A)(1).**

16. A.C.R. Rule 5(A)(1) mandates that records declared confidential by Indiana statute or court rule must be excluded from public access. Both medical and mental health records are confidential and protected from public disclosure.
17. That Petitioner's is transgender is protected medical information. I.C. § 16-39-3-10 declares a patient's "mental health record or testimony related to a patient's mental health" offered in a legal proceeding to be a confidential court record.
18. Gender transitions involve both physical and social elements. Social elements, such as wearing clothing more readily associated with a specific gender, changing one's name and updating their identity documents to reflect their experienced sex, are therapeutic treatments for the psychological treatment of gender dysphoria. STANDARDS OF CARE FOR THE HEALTH OF TRANSSEXUAL,

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<sup>3</sup>A publication notice in a local newspaper lives on past the three weeks in which it is published. All public notices published in Indiana are archived and searchable through the Hoosier State Press Association. Indiana Public Notice Search, available at <http://www.indianapublicnotices.com/>. Once publication is made or the court file accessed, it cannot be undone.

TRANSGENDER, AND GENDER-NONCONFORMING PEOPLE, WORLD PROFESSIONAL ASSOCIATION FOR TRANSGENDER HEALTH (7<sup>th</sup> ed. 2011), *available at* <https://www.wpath.org/publications/soc>.

19. The records in this case constitute protected health records that Indiana law requires trial courts to keep confidential. *See* Ind. Code § 16-39-3-10 (a “mental health record or testimony related to a patient’s mental health” offered in a legal proceeding is a confidential court record). Trial courts have no discretion, and therefore no jurisdiction, to order such records be made publicly available. *E.g. Groth v. Pence*, 67 N.E.3d 1104, 1112 (Ind. Ct. App. 2017) (“as a matter of law,” records declared confidential by statute “shall not be disclosed”), *trans. denied*.

### **III. BEING OUTED AS TRANSGENDER VIOLATES PETITIONER’S PRIVACY INTERESTS PROTECTED BY THE ACCESS TO COURT RECORDS RULES AND THE 4TH AMENDMENT OF THE US CONSTITUTION.**

20. The purpose of the Rules on Access to Court Records is, among other things, to protect the privacy interests of litigants. The Commentary to the Rule recognizes “that unrestricted access to certain information in Court Records could result in an unwarranted invasion of personal privacy or unduly increase the risk of injury to individuals and businesses.” Ind. Access to Court Records Rule 1, cmt.
21. Petitioner has a fundamental right of privacy in preventing the release of their highly personal and intimate medical and mental health information and in deciding under what circumstances to release information that has a statistically significant likelihood to subject them to substantial harm. *Whalen v. Roe*, 429 U.S. 589, 599-600 (1977); *Nixon v. Adm’r of Gen. Servs.*, 433 U.S. 425, 464-65 (1977) (instructed that intrusions on legitimate informational privacy expectations must be weighed against the public interest in accessing that information); *NASA v. Nelson*, 562 U.S. 134, 138 (2011) (reaffirming *Nixon* balancing test); *Denius v. Dunlap*, 209 F.3d 944, 956 (7<sup>th</sup> Cir. 2000) (holding 4<sup>th</sup> Amendment right to informational privacy protects the “clearly established ‘substantial’ right in the confidentiality of medical information that can only be overcome by a sufficiently strong state interest”).



22. The United States Supreme Court has recognized that a constitutional right to information privacy protected by the 4th Amendment applies to the states under the 14th Amendment. *Whalen v. Roe*, 429 U.S. 589, 599-600 (1977). This constitutional right to privacy means one has a venerable right “not to have intimate facts concerning one’s life disclosed without one’s consent.” *Bartnicki v. Vopper*, 200 F.3d 109, 122 (3d Cir. 1999). In fact, “the more intimate or personal the information, the more justified is the expectation that it will not be subject to public scrutiny.” *Fraternal Order of Police v. City of Philadelphia*, 812 F.2d 105, 112 (3d Cir. 1987). This right to privacy has been deemed by Federal Courts to include an individual’s gender identity. *See Powell v. Schriver*, 175 F.3d 107 (2d Cir. 1999).

Denying Petitioner’s Access to Court Records request would make public the fact that Petitioner is pursuing therapeutic treatment for their gender dysphoria and reveal medical and mental health information to a large number of disinterested persons with no legitimate interest in that information, in violation of the 4<sup>th</sup> and 14<sup>th</sup> Amendments to the United States Constitution, I.C. § 16-39-3-10, and the purpose of the Access to Court Records Rule.

*Prepared in January 2020 for use by pro se parties by:  
LGBT Law Project  
Indiana Legal Services  
lgbtgroup@ilsa.net*

STATE OF INDIANA

IN THE \_\_\_\_\_ COUNTY COURT

COUNTY OF \_\_\_\_\_  
*(county you live in)*

*(county you live in)*

**Case Number:**

IN RE THE CHANGE OF  
NAME OF:

\_\_\_\_\_,  
*(child's current legal name)*

A minor.

**PUBLIC NOTICE OF HEARING**

**Please take notice:** Petitioner having filed a Verified Written Request for Sealing the Record pursuant to Administrative Rule 9(G)(4)(c) and 9(G)(4)(a)(iii) requesting that the Court enter an Order excluding the entire case from public access, now AND the Court, having duly examined said motion, hereby sets the matter for hearing on \_\_\_\_\_.

ORDERED \_\_\_\_\_

Dated \_\_\_\_\_

STATE OF INDIANA

COUNTY OF \_\_\_\_\_  
(county you live in)

IN RE THE CHANGE OF  
NAME OF:

\_\_\_\_\_,  
(child's current legal name)

A minor.

IN THE \_\_\_\_\_ COUNTY COURT

(county you live in)

Case Number:

**ORDER ON VERIFIED REQUEST TO PROHIBIT PUBLIC ACCESS PURSUANT TO  
ADMINISTRATIVE RULE 9**

Following a hearing on the matter, held on \_\_\_\_\_ the Court

now issues the following Findings and Order:

1. Petitioner has demonstrated by clear and convincing evidence that the requirement of Indiana Rule of Court Administration 9(G)(4)(a)(ii) are met.
2. Petitioner demonstrated that the Child's personal safety interests served by prohibiting public access to the entire court record of this case outweigh the public access interests served by Administration Rule 9.
3. Permanently prohibiting Public Access to the entire court record and modifying the publication requirements is the least restrictive means and duration to protect the Child's personal safety.

**THEREFORE, IT IS ORDERED** that Public access to the documents that comprise the entire court record under this case number is permanently prohibited and all Public access to all further proceedings under this case number is prohibited.

**IT IS FURTHER ORDERED** that the publication requirements of Indiana Code §34-28-2-3(a) are waived.

**ORDERED** \_\_\_\_\_

\_\_\_\_\_  
JUDICIAL OFFICER

Distribution:

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*(mailing name)*

Mailing Address:

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