

**Indiana Legal Services’
Low-Income LGBT Project’s**

**Guide to Changing your Name and/or
Gender Marker in Indiana**

Fall 2017

This document was prepared by Theo Ciccarelli Cornetta, JD and Patrick Moore of Indiana Legal Services, Inc. This is not meant to be legal advice, but a guide to name and gender marker changes in Indiana.

Indiana Legal Services, Inc. (ILS) is a nonprofit law firm that provides free civil legal assistance to eligible low-income people throughout the state of Indiana. ILS helps clients who are faced with legal problems that harm their ability to have such basics as food, shelter, income, medical care or personal safety. Most of the cases ILS handles are cases such as family law where there is domestic violence, housing, consumer law, access to health care, and access to government benefits. ILS does not handle any criminal matters.

ILS Mission Statement: Indiana Legal Services uses the law to fight poverty, empower clients, and improve access to justice.

ILS Diversity and Inclusion Mission Statement: "To ensure that ILS policies and practices respect, value, appreciate and leverage the unique and varied attributes of ILS's clients, board, staff and stakeholders."

ILS Low-Income LGBT Project is a statewide legal aid program providing legal advocacy, assistance, and representation to low-income LGBT people in Indiana. The low-income LGBT Project looks to address the disproportionate poverty in the LGBT community. Like all ILS services, this project targets issues affecting all low-income people, like public benefits, employment, personal safety, and healthcare, as well as issues more common to the LGBT population like correcting identity documents and issues of discrimination.

If you are looking for legal assistance or representation you can contact our office by calling **toll free at (844) 243-8570** or **filling out an intake online at <http://www.ilsintake.net/>**. All our services are free. You can also contact the Low-Income LGBT Project staff at the information below:

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Introduction: Changing your Name and/or Gender

This packet was created for transgender residents of Indiana. It provides the necessary details required to change your name and gender marker on your identity documents. In order to change your name on legal documents, you are required to get a court order changing your name. To change your gender marker (i.e. have your identity documents say male instead of female or female instead of male) you are required to get a court order as well. This packet recommends that you ask the court to grant your name change and gender marker change at the same time.

This process has several steps, which are outlined in this packet. The process may seem scary and the legal system may be foreign to you, but this packet is meant to make the process a little easier. **If you have questions or are looking for an attorney, you can contact Indiana Legal Services toll free at (844) 243-8570 or online at <http://www.ilsintake.net/>.** Although we can only represent individuals who financially qualify for our services, if you do not qualify, we can provide you with a referral. If you wish to hire an attorney, attached to this packet is a list of attorneys who take name and gender marker change cases. Indiana Legal Services is not endorsing any of these attorneys, nor do we receive anything in listing their names here. It is simply a list of attorneys who have stated their interest in taking cases for LGBT people in Indiana.

Once you are ready to change your name legally, you should make a list of all the documents which you would like to change to reflect your new name. For example, you may want to change your driver's license, social security card, birth certificate, student ID, et cetera. This list will be helpful once you get your court order granting your name change. Unfortunately, the court process does not change these documents for you. The court process gives you a legally enforceable document that says your name on all these identification documents shall be changed to your new name. Once you have this document, you must go to the issuing agency of each identification document, and ask them to give you a new identification document with the correct legal name. For example, you will take the document from the court to the Bureau of Motor Vehicles, and they will issue you a new driver's license in the correct name.

The same process applies when you change your gender marker. You should make a list of all the documents which you would like to change to reflect your new gender marker. However, there are some identity documents that you do not need a court order to change. For example, a doctor's letter is enough to have your gender marker on your driver's license changed. See <http://www.in.gov/bmv/2767.htm> for more details on changing your driver's license without a court order. There are other documents that cannot be changed without a court order, like your birth certificate. Once you have the court order granting your gender marker change, you will go to each agency that issues you an identity document. That agency must then change your gender marker in their system and on your ID. This is the same process for your name change, and can all be done at the same time.

Commonly Asked Questions:

What is a legal name change?

A legal name change is the process where a person changes their name in the courts, legal system, and on their identity documents. Essentially a legal name change allows you to stop using a prior name and start using a new name, even on legal documents.

In requesting a name change, the court can issue a document stating that your name is no longer the name you filed your petition under, but is now the name you requested. By issuing this document the court gives you a legally enforceable document that states other agencies must recognize your new name as your legal and only name. This does not mean the agency must erase evidence of your prior name, but it does mean they have to use your new name in their systems.

What is a gender marker change?

Just like a name change, a gender marker change is the process by which the court issues a document stating your gender is no longer the gender you filed under, but now the gender you requested. By issuing this document the court gives you a legally enforceable document that states that other agencies must recognize your new gender as your legal and only gender. This does not mean the agency has to erase evidence of your gender marker, but it does mean they have to use your new gender in their systems and in interacting with you in the future.

Who can file for a name change?

An easier question to answer is who can't file or who has more steps in filing.

- Incarcerated people: If you are in jail or prison you are not allowed to change your name.
- Sex or violent offenders: If you are required to register as a sex or violent offender you are not allowed to change your name.
- Non-United States Citizens.

Who can file for a gender marker change?

There are no restrictions on who can file for a gender marker change. Anyone can file.

Do I need to have surgery or be on hormones to legally change my name or gender?

No, you do not need to have surgery or be on hormones to legally change your name or gender. If you are only asking the court for a name change, it does not matter if you have used medical services in transitioning. A judge should not ask you about medical services or transition plans if you are only requesting a name change.

If you are requesting a gender marker change (with your name change or on its own) you should only have to show the court your request is in "good faith." Showing evidence of a medical transition, like a letter from a treating physician, can help in seeking a gender marker change. But if you have not sought medical transition services, it can help for you to have a

professional and/or friend/family who has known you through your transition testify or write a letter stating you authentically are the gender you identify as and you are living in that gender.

Across Indiana, different counties treat gender marker changes differently. Unlike the name change, courts vary widely in what they require to give a gender marker change. Bring whatever documents you have from medical professionals or other people who can testify to your transition.

Do I need an attorney?

You do not need an attorney to change your name or gender. Yet, it can be very helpful to have one. You can choose to ask the court for a change of name or gender yourself. Doing this process on your own is known as petitioning the court “*pro se.*”

What if I have debt?

Having debt should not prevent you from getting your name or gender marker changed. The court just wants you to show you are not looking to escape your debt by changing your name. The law therefore requires you publish your name in the newspaper as a way of informing your creditors. If you have safety or other concerns about publishing your name change in the newspaper, see the below question on violence or contact an attorney.

What if my birth certificate is from another state than Indiana?

Unfortunately, there is no guarantee that a court order from Indiana will be used to change your gender marker or name on your birth certificate from another state. States vary on their process for amending birth certificates. If you are curious about your state of origin’s process, you can look to www.transequality.org/documents for more information. You can also contact an attorney in your state of origin for more information on how to change your birth certificate in that state.

How much will it cost? What if I cannot afford the cost?

To file your petition you will need to pay a filing fee. As an example, the current filing fee in Marion County is \$156. To find out the filing fee in your county, contact the Clerk of Court in your county. To find the contact information for the Clerk of Court in your county, visit <http://www.in.gov/judiciary/2794.htm>.

If you cannot afford to pay the filing fee, you can ask the court to waive your filing fee. If you cannot afford the filing fee, you may qualify for free legal aid from Indiana Legal Services and should contact us at the provided number. Additionally, the court waives the filing fee for all individuals represented by Indiana Legal Services.

Changing your Name as a Minor

A person 17 or older is considered an adult for the purpose of name changes in Indiana. If you are 17 or older, you should file an adult petition for change of name and gender, therefore skipping these extra steps.

If you are under the age of 17, we recommend you speak with an attorney. But for some basic information we provide the following:

On top of the requirements for an adult petition for name change, a petition for a minor must include:

- 1) A statement on why the minor is changing their name.
- 2) The consent of the minor's parents or guardians or proof that the parents are aware of the request for name change.

When a minor does not have contact with their parents or consent from the parents is difficult, we recommend speaking with an attorney. There are circumstances, like when parents do not have legal rights to their child, where the consent is not required.

Filing with a Criminal Record

If you have been convicted of a felony, we recommend you speak with an attorney. But for some basic information we provide the following:

Having a criminal record only impacts your ability to change your name if you have been convicted of a felony. Having a criminal record does not impact your ability to change your gender marker. **If you have never been convicted of a felony, you do not need to worry about these extra steps.**

Yet, if you have been convicted of a felony in Indiana, another state, or in Federal court, there are some extra steps in getting your name changed. The court wants you to show that you are not running away from criminal charges or punishment by changing your name. Therefore, you must:

- 1) List on your petition and order every conviction of a felony you have received.
- 2) If you have a felony or felonies to report on your petition, you must give notice of your request for change of name to
 - a. The sheriff of your county;
 - b. The prosecuting attorney in your county; and
 - c. The Indiana central repository for criminal history information.

This notice must be given at least thirty days before your hearing.

For complete information on how to meet this notification requirement, see Indiana Code 34-28-2-3(c) and (d) or contact an attorney.

The Publication Requirement And How to Make the Case Private

For your name change, you are required to publish in the newspaper that you are changing your name.

For Individuals Planning to publish in the newspaper:

You should use the newspaper that is most widely published in your county. If there is no newspaper in your county, you should use the newspaper in a neighboring county. The Clerk of Court can tell you which newspaper is typically used for publishing.

After you have filed your petition, you will need to take your Notice of Petition for Change of Name to the person who handles legal notices at your local newspaper. This notice must appear once a week for three weeks in the paper. The last publication date must be at least thirty days before your hearing date.

After the notice has been published all three times, the newspaper will send a proof of publication notice to you, which you must attach to the Notice of Filing Proof of Publication and then file these forms with the Court. This process may seem overwhelming but both the court and the newspapers regularly publish these notices and can help you through the process.

You should not be required to publish your gender marker change in the newspaper. If a judge or clerk requests you publish in the newspaper that you are petitioning for a change of gender, it can be best for you to contact an attorney. Indiana Law explicitly says you do not need to publish your gender marker change in the newspaper.

Waiver of Publication:

Many transgender people fear that publishing their name change in the newspaper and to the community will put them at risk of harm. For this reason, there is a way for individuals to not have to publish their name change in the newspaper. As of August 2017, in a case argued and won by Indiana Legal Services, the courts can waive the publication requirement for individuals facing a threat of harm. The case is titled *In re the Name Change of A.L. and In re the Name Change of L.S.*, 79A02-1703-MI-473 (Ind. Ct. App. 2017). For transgender people, that means asking the court to waive publication if you believe that publishing your name change and notifying the community of your name change would put you at risk of physical harm and/or discrimination. You can find the documents needed to request a waiver of publication on our website www.indianalegalservices.org.

Sealing of the Record:

Under the same court decision, individuals can ask for their name change to be made private. This would mean that your name change would not be kept in public record and you would not have to disclose your name on future job or housing applications. The process for sealing the record is the same as requesting a waiver of publication. You can find the documents needed to request a sealing of your record on our website.

The Process:

Step 1: Filing your Petition

Take the originals and copies of your forms to the Clerk of Court in your county. You can look up the location of your County Courthouse at <http://www.in.gov/judiciary/2694.htm> . You can also find on that website the local court rules for your county. You will want to look at those rules to see how many copies of your paperwork you will need to provide to the Clerk of Court.

Once you have gone to your courthouse and given your forms to the Clerk of Court, the Clerk will provide you with a case number and a hearing date. Make sure the court fills in the date on your request for hearing. This step is the same for a name change, name and gender change, and gender change. So regardless of whether you are filing for one of these changes or both, you will still go to the Clerk of Court to submit your request.

Step 2: Publication

See the Previous page for information on this step.

Step 3: Hearing

To prepare for your hearing, you can review the courts advice on representing yourself by visiting their website at <http://www.in.gov/judiciary/selfservice/2361.htm> and <http://www.in.gov/judiciary/selfservice/2362.htm> .

In preparing for your hearing on a request for change of gender, you will want to collect and bring to court any documents showing you have received services in line with your transition. If you can get a letter from any of the following that will greatly help you in getting a gender marker change: your surgeon, your prescriber of hormones, your therapist, or any professional who has worked with you and can speak to your gender transition. Look at the frequently asked questions above if you have not used medical or professional services in your transition.

If you are requesting the court waive your publication and/or seal your record, be prepared to answer questions from the court on whether you have experienced violence or discrimination because you are transgender or whether you fear you are at risk of violence or discrimination as a transgender person. Also be prepared to answer some basic questions on your name/gender, what you plan to change it to, if you have been convicted of any crimes, and other details stated on your petition.

Step 4: Changing your Identity Documents

After the court has granted your name and/or gender marker change, you are responsible for informing government agencies, your employer, your creditors, and other relevant agencies and businesses of your new name and/or gender marker change. This means that you should take the court order granting your name and/or gender marker change to those agencies and businesses. They should then issue you a new identity document and change your information in their systems, these identity documents may include your

Birth Certificate

Social Security Card

Driver's License or Identification Card

Passport

Businesses, Banks and Billing Companies

Any other institution, document, licensure, or account (for example: your school)

You can get more information on how to change certain documents at:

Indiana Birth Certificate at <http://www.in.gov/isdh/26808.htm>

Social Security at <https://faq.ssa.gov/link/portal/34011/34019/article/3749/how-do-i-change-or-correct-my-name-on-my-social-security-number-card>

U.S. Passport at

<https://travel.state.gov/content/passports/en/passports/services/correction.html>

Conclusion:

Changing your name and/or gender is an exciting and affirming process for so many transgender people. Yet for some transgender people, it can feel invalidating if the court denies their name and/or gender change. If you are denied your name and/or gender change from the courts, contact an attorney at the resources listed in this packet.

Remember regardless of whether the legal system sees you for who you are, your gender is valid. You are the gender you know yourself to be. You are the gender you say you are. Indiana Legal Services' Low-Income LGBT Project wishes you all the best in your transition and your future.

If you have questions or are looking for an attorney, you can contact Indiana Legal Services toll free at (844) 243-8570 or online at <http://www.ilsintake.net/>

ATTORNEY REFERRAL LIST

This is a list of attorneys who take name and gender marker changes in Indiana. Indiana Legal Services is not endorsing any of these attorneys, nor do we receive anything in listing their names here. This is simply a list of attorneys who have stated their interest in taking cases for LGBT people in Indiana.

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