

# Indiana Legal Services, Inc.

*Ensuring Equal Access to Justice*



MAY  
2019

## LEGAL NAME AND GENDER CHANGES: FELONY CONVICTION FORMS

LGBT Project, Indiana Legal Services  
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# INDIANA LEGAL SERVICES, INC.

## LGBT PROJECT

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### WHAT IS IN THIS PACKET?

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This packet contains all the forms an adult with a felony conviction needs to change their name and gender. Having a felony conviction does not prevent you from changing your name and gender marker. If your conviction resulted in you being a registered sex or violent offender, then you are not able to change your name. You also cannot change your name if you are currently incarcerated. There are 4 sets of paperwork:

#### ✓ **Name and gender 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 and Gender Change Petition*

This explains to the court all the things the law says you have to disclose, including that you are not changing your name to avoid creditors and that you are changing your gender marker to match your gender identity. You must list all felony convictions anywhere in the United States. **Note:** Please contact the LGBT Project of Indiana Legal Services at 765-423-2703 or [lgbtgroup@ilsi.net](mailto:lgbtgroup@ilsi.net) if you do not know the details of your cases.

- Order Setting Hearing*

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

- Name and Gender Change Order*

This is what you want the Judge to sign showing that your name and gender have been changed. **Note:** Please contact the LGBT Project of Indiana Legal Services at 765-423-2703 or [lgbtgroup@ilsi.net](mailto:lgbtgroup@ilsi.net) if you were born outside of Indiana because states all have different requirements about what needs to be in a gender change order.

#### ✓ **Fee Waiver (if you qualify)**

- Affidavit of Indigency and Request for Fee Waiver*

This is a request to the Judge asking that you not have to pay any fees for your name change if you can't afford them. Some courts may request that you fill out an additional form listing your income and assets.

- Order on Fee Waiver Request*

The Judge signs this order after he or she waives the fees.

#### ✓ **Rule 9 Publication Waiving 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 safety.

- Administrative Rule 9(G)(5) Notice of Exclusion of Confidential Information for Public Access*  
This lets the court know you are going to be filing a Rule 9 request. This says the request is on green paper, but the request does not have to be on green paper.
- Verified Request to Prohibit Public Access Pursuant to Administrative Rule 9*  
This is a request to the Judge to waive the publication requirement of the name change and make your case confidential. This is where you should detail all the reasons you would feel unsafe having your name and gender change made public.
- Exhibit A: Memorandum of Law*  
Indiana Legal Services wrote this memo for the Judge to explain why, in general, it can be unsafe for trans people to be outed, and why this means a name and gender marker case should be sealed (confidential).
- 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 the sealing request. To let the public know about the hearing, the court posts this notice in the courthouse at least 30 days before the hearing.

✓ **Notification Forms**

If your felony conviction was in the last 10 years, the law requires that at least 30 days before your name change hearing you give notice to the sheriff and prosecuting attorney in the county in which you live (not where the conviction occurred) and the Indiana repository for criminal history.

- Sheriff in the county you live in (not where the conviction occurred);  
A list of sheriffs by county can be found at <http://www.indianasheriffs.org/county-sheriff-map.aspx>
- Prosecuting attorney of the county you live in (not where the conviction occurred); and  
List of prosecuting attorneys by county can be found at <https://www.in.gov/ipac/2330.htm>
- Indiana repository for criminal history, with fingerprints. Many local police departments will fingerprint you for a small fee.

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

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 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></p>
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*Current legal name:* The name that is on your IDs that you want to change from.

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

*Signature:* Unfortunately, you need to sign the paperwork in your legal name. The Name Change Petition must be signed in front of a notary after showing a photo ID.

*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.	<p>My petition is made in good faith and not for fraudulent purposes. I want to change my name to <u>Aiden Michael Smith</u></p> <p><input checked="" type="checkbox"/> So that my name matches my gender identity and presentation <input type="checkbox"/> Other _____</p>
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We hope these forms are simple to use, but if you have questions, please contact the LGBT project at 765-423-2703 or [lgbtgroup@ilsinet.net](mailto:lgbtgroup@ilsinet.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. 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 October 2018, the current filing fee in most counties 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 765-423-2703 or [lgbtgroup@ilsinet.net](mailto:lgbtgroup@ilsinet.net) before you pay a fee.

### Will my case be public?

Yes. Everything you file in your name and gender change cases are publicly available on <https://public.courts.in.gov/mycase>. If you feel 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 safety. This is called a Rule 9 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 and gender change paperwork**

*Appearance by self-represented party*

*Name and Gender Change Petition*

- The Name Change Petition must be signed in front of a notary after showing a photo ID. You can find a notary at most banks. Some notaries will charge a fee to notarize, but it can't be more than \$10.

*Order Setting Hearing*

*Name and Gender Change Order*

✓ **Fee Waiver (if you qualify)**

*Affidavit of Indigency and Request for Fee Waiver*

*Order on Fee Waiver Request*

✓ **Rule 9 Publication Waiving 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 safety.

*Administrative Rule 9(G)(5) Notice of Exclusion of Confidential Information for Public Access*

*Verified Request to Prohibit Public Access Pursuant to Administrative Rule 9*

*Exhibit A: Memorandum of Law*

*Public Notice of Hearing*

### **RULE 9 HEARING OR PUBLISHING IN A NEWSPAPER**

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✓ **Rule 9 Hearing**

If you made a Rule 9 request, the court will have a hearing about this request. Some Counties, such as Marion, will have this hearing the same day as your name and gender marker hearings, while a few others will schedule two hearings.

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

✓ **Publication in a Newspaper**

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. Regardless of the process, the notice must appear once a week for three weeks in a local newspaper. The last publication date must be at least thirty days before your hearing date. You should then return this proof of publication to the clerk.

**FELONY NOTIFICATION**

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If your felony conviction was in the last 10 years, the law requires that at least 30 days before your name change hearing you give notice to:

- The sheriff in the county you live in (not where the conviction occurred);  
A list of sheriff's by county can be found at <http://www.indianasheriffs.org/county-sheriff-map.aspx>
- The prosecuting attorney of the county you live in (not where the conviction occurred);  
and  
List of prosecuting attorneys by county can be found at <https://www.in.gov/ipac/2330.htm>
- Indiana repository for criminal history, with fingerprints. Many local police departments will fingerprint you for a small fee.

You will need to show the judge you mailed the required letters, which you can do by mailing the documents certified mail, return receipt. You should bring the return receipt notice to the hearing, along with a copy of the tracking number.

**NAME AND GENDER CHANGE HEARING**

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**When and where will my hearing be?**

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 which you live. The hearing notice will let you know what court and in which courtroom.

**What should I bring to the hearing?**

- Indiana photo ID;
- Original or certified copy of Birth Certificate;
- US passport, if you have one;
- Letter from your doctor or therapist about your transition, if you have one;
- Proof that you mailed notice to the sheriff, prosecuting attorney and criminal history repository.

**What happens at the hearing?**

The Judge gets information from you about why you want to change your name and gender. The Judge will likely just ask you about all the information in your name and gender change petition.

✓ *Name Change*

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

✓ *Gender Change*

You need to show the Judge that you are changing your gender marker in good faith, which includes to have it match your gender identity. Some Judges want a letter from your doctor showing that you are in the process of transitioning. This is not required by law, but not giving it could cause the Judge to delay your case. If you don't feel comfortable giving this information to the Judge or you are not medically transitioning, please contact us at 765-423-2703 or [lgbtgroup@ilsin.net](mailto:lgbtgroup@ilsin.net).

**What happens after the hearing?**

After the hearing, the Judge should sign the Name and Gender Change order you submitted when you started our case, which means your name and gender are legally changed! We recommend getting 2-3 certified orders from the clerk.

After your name and gender are legally changed, you should update your name and gender on your IDs as well as with your bank, employer, or any other institution that has your old name.

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

(county you live in)

Case Number:

IN RE THE CHANGE OF  
NAME OF:

\_\_\_\_\_,  
(current legal name)

Petitioner

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

1. My current legal 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 Legal 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:

\_\_\_\_\_,  
*(current legal name)*

Petitioner

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

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

1. I intend to file a Petition for Change of Name and Gender 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 Legal 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:

\_\_\_\_\_,

(current legal name)

Petitioner

**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 you live in)

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

Case Number:

IN RE THE CHANGE OF  
NAME OF:

\_\_\_\_\_,  
(current legal name)

Petitioner

**VERIFIED PETITION FOR CHANGE OF NAME AND GENDER**

I, \_\_\_\_\_ respectfully petition  
(current legal name)

this Court to change my name, pursuant to Indiana Code §34-28-2-1, and to change my gender  
pursuant to the inherent equity jurisdiction of the court. In support of this petition, I state:

1. My current legal name is \_\_\_\_\_.

2. The current sex designation my birth certificate is \_\_\_\_\_.

3. My date of birth is \_\_\_\_\_.

4. My current residential and mailing address is:

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

5. My Indiana  Identification Card  Driver's license number is \_\_\_\_\_.

(check one)

6. (check one)

I have not been known by any other legal names.

Previously, my legal name was \_\_\_\_\_

and was changed to my current legal name via  marriage  adoption  other \_\_\_\_\_

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

7. I was born in \_\_\_\_\_ and am a United States Citizen.

(City, State)

8. *(check one)*
- I do not hold a valid US passport
  - My passport number is \_\_\_\_\_.

9. I have been convicted of the following felonies:

Cause No.	County, State	Charge	Date of Conviction

10.  My last felony conviction was more than ten years ago.
- My last felony conviction was less than ten years ago. In compliance with I.C. § 34-28-2-3(c), I will give notice of this petition at least 30 days prior to the hearing on this petition to:
- a. The sheriff in the county in which I reside;
  - b. The prosecuting attorney in the county in which I reside; and
  - c. The Indiana Central Repository for Criminal History Information, which will include: my full current legal name, requested name change, date of birth, address, physical description; a full set of classifiable fingerprints; and a request they forward a copy of my criminal records to the Court.

11. I will send a copy of the court decree granting or denying this petition to the Indiana state police, as required by I.C. § 34-28-2-3(f).
12. I am not a registered sex or violent offender who is barred by I.C. § 11-8-8-16(a) from changing my name.
13. My petition is made in good faith and not for fraudulent purposes. I want to change my name to \_\_\_\_\_
- So that my name matches my gender identity and presentation  Other \_\_\_\_\_

14. Pursuant to the inherent equity jurisdiction of the court and *In Re Petition for Change of Birth Certificate*, 22 N.E.3d 707 (Ind. Ct. App. 2014), I want to change my gender marker from \_\_\_\_\_ to \_\_\_\_\_. My petition is made in good faith and not for fraudulent purposes. I want to make this change because:

- I want my legal gender to accurately reflect my gender identity and presentation.
- Other \_\_\_\_\_

THEREFORE, I respectfully request that this Court grant my Petition for Change of Name and Gender, 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.

\_\_\_\_\_

Date

\_\_\_\_\_

Signature (Legal Name)

\_\_\_\_\_

Printed Legal Name

STATE OF INDIANA

)

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

)

Before me \_\_\_\_\_, a notary public, resident of  
\_\_\_\_\_ County, State of Indiana, personally appeared  
\_\_\_\_\_ and being first duly sworn upon his/her/their  
oath, says that the facts alleged in the foregoing instrument are true.

Date: \_\_\_\_\_

Notary Public: \_\_\_\_\_

My Commission Expires: \_\_\_\_\_

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:

\_\_\_\_\_

*(current legal name)*

Petitioner

**ORDER SETTING HEARING**

The Court, having considered Petitioner's Verified Petition for Change of Name and Gender filed in this matter, now sets the matter for hearing on

\_\_\_\_\_ for \_\_\_\_\_ of the Court's time.

ORDERED \_\_\_\_\_

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

**Distribution:**

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

Mailing Address:

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

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:

\_\_\_\_\_,  
(current legal name)

Petitioner

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

The Court, having reviewed the Verified Petition for Change of Name and Gender 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 is not statutorily barred from a legal name change.
2. Petitioner is seeking to change their gender in good faith and not for a fraudulent or unlawful purpose. *In Re Petition for Change of Birth Certificate*, 22 N.E.3d 707 (Ind. Ct. App. 2014).
3. Petitioner’s date of birth is \_\_\_\_\_.
4. Petitioner’s current legal name is \_\_\_\_\_.
5. The sex/gender on Petitioner’s birth certificate is \_\_\_\_\_.

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

Petitioner’s legal name is hereby changed to \_\_\_\_\_

Petitioner’s legal gender is changed to \_\_\_\_\_.

**IT IS FURTHER ORDERED** that all agencies and institutions issuing the Petitioner 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 OF \_\_\_\_\_  
(county you live in)

(county you live in)

Case Number:

IN RE THE CHANGE OF  
NAME OF:

\_\_\_\_\_,  
(current legal name)

Petitioner

**ADMINISTRATIVE RULE 9(G)(5) NOTICE OF EXCLUSION OF  
CONFIDENTIAL INFORMATION FOR PUBLIC ACCESS**

Contemporaneous with the filing of this petition for change of name and gender change,

\_\_\_\_\_,  
(current legal name), has filed confidential

information on green paper in accordance with Administrative Rule 9(G)(6). Pursuant to  
Administrative Rule 9(G)(5), Petitioner provides this notice that the information listed below is to  
remain excluded from public access in accordance with 9(G)(4)(a)(ii):

1. Appearance by Self-Represented Person in a Civil Case
2. Affidavit of Indigency and Request for Fee Waiver
3. Order on Fee Waiver
4. Verified Petition for Change of Name and Gender
5. Order on Verified Petition for Change of Name and Gender
6. Administrative Rule 9(G)(5) Notice of Exclusion of Confidential Information for Public Access
7. Verified Request to Prohibit Public Access Pursuant to Administrative Rule 9
8. Memorandum of Law in Support of Verified Request to Prohibit Public Access Pursuant to Administrative Rule 9
9. Order on Verified Request to Prohibit Public Access Pursuant to Administrative Rule 9

I am the only party to this proceeding. Hence, there is no party to be served.

Respectfully submitted,

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Legal 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:

\_\_\_\_\_,  
(current legal name)

Petitioner

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

I, \_\_\_\_\_ respectfully petition  
(current legal name)  
this Court to seal the record of my name and gender marker change proceeding, permanently prohibiting  
Public Access to the entire court record and waiving the publication requirement of Indiana Code § 34-  
28-2-3(a) pursuant to Indiana Rule of Court Administration 9(G)(4). In support of this request, I state:

1. I am  transgender  gender non-conforming  nonbinary  \_\_\_\_\_ and  
am seeking to change my name and gender to accurately reflect my 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 my gender identity, I will personally experience violence,  
discrimination and an invasion of my privacy.
3. I fear that if I must publish my name change in a newspaper, or if someone could find my  
name and gender change request and address on-line, that I could be targeted for  
discrimination and/or violence based on my gender identity.

4. I also fear for my safety because of my personal experience with violence and discrimination.

I have personally suffered  physical harm  discrimination  harassment  bullying   
threats of violence  other\_

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because of my gender identity and presentation.

5. I am attaching a Memorandum of Law in Support of Rule 9 Request prepared by Indiana Legal Services an Exhibit.

6. There are no other parties or interested persons to this action.

THEREFORE, I respectfully request that pursuant to Administrative Rule 9(g), 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.

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Date

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Signature

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Printed Legal Name

**MEMORANDUM OF LAW IN SUPPORT OF**  
**VERIFIED REQUEST TO PROHIBIT PUBLIC ACCESS**  
**PURSUANT TO ADMINISTRATIVE RULE 9**

1. This memorandum of law was drafted by Indiana Legal Services' LGBT Project to support self-represented litigants who fear for their safety make an Administrative Rule 9 request in their name and gender change case.
- I. COURT DOCUMENTS IDENTIFY PETITIONER AS TRANSGENDER, WHICH UNLAWFULLY DISCLOSES CONFIDENTIAL MEDICAL INFORMATION IN VIOLATION OF ADMINISTRATIVE RULE 9(G)(2)(B).**
2. Rule 9 prohibits public access to records that are declared confidential by Indiana statute or court rule. Admin. R. 9(G)(2)(b). Both medical and mental health records are confidential and protected from public disclosure.
3. That Petitioner 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.
4. 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, 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>.
5. 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. *See* Ind. Admin. R. 9(G)(1)(a) ("The following shall be excluded from Public Access: (a) Entire

cases where all Court Records are declared confidential by statute or other court rule ...."); *id.* at R. 9(G)(2)(b) ("The following shall be excluded from Public Access: ... (b) Case Records excluded from Public Access or declared confidential by Indiana statute or other court rule ...."); *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*.

## **II. HAVING TO PUBLISH NOTICE IN A NEWSPAPER AND HAVING HER CASE PUBLICLY AVAILABLE PUTS PETITIONER AT SUBSTANTIAL RISK OF HARM.**

6. The purpose of Rule 9 is, among other things, to minimize an individual's risk of injury. Admin. R. 9(A)(2)(b) and (c). 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." *Id.* cmt.
7. Rule 9 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 9 does not require that Plaintiff endure targeted threats, violence, or abuse before granting temporary and permanent sealing and a publication waiver.
8. 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.
9. 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.
10. 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://www.avp.org/storage/documents/2013\\_ncavp\\_hvreport\\_final.pdf](http://www.avp.org/storage/documents/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).

11. 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%281017%29.pdf).
12. 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/).
13. 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.

14. 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>.
15. 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).
16. 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*.
17. 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. *Id.*

### **III. BEING OUTED AS TRANSGENDER VIOLATES PETITIONER'S PRIVACY INTERESTS PROTECTED BY ADMINISTRATIVE RULE 9 AND THE 4TH AMENDMENT OF THE US CONSTITUTION.**

18. The purpose of Administrative Rule 9 is, among other things, to protect the privacy interests of litigants. Admin. R. 9(A)(2)(b) and (c). 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.” *Id.* cmt.
19. Petitioner has a fundamental right of privacy in preventing the release of 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”).
20. The United States Supreme Court has recognized that a constitutional right to information privacy protected by the 4<sup>th</sup> Amendment applies to the states under the 14<sup>th</sup> 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).



21. Denying Petitioner's Rule 9 request would public the fact that Petitioner is pursuing therapeutic treatment for gender dysphoria reveals 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 Administrative Rule 9.

*Prepared in January 2019 for use by pro se parties by:  
LGBT Law Project  
Indiana Legal Services  
lgbtgroup@ilsa.net*

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:

\_\_\_\_\_,  
(current legal name)

Petitioner

**ORDER SETTING HEARING ON PETITIONER'S VERIFIED REQUEST TO EXCLUDE  
CASE FROM PUBLIC ACCESS**

**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 \_\_\_\_\_ for \_\_\_\_\_ of the Court's time.

ORDERED \_\_\_\_\_

Dated \_\_\_\_\_

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:

\_\_\_\_\_,  
*(current legal name)*

Petitioner

**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 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 Petitioner'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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\_\_\_\_\_  
(name of Sheriff)

**Sheriff**

\_\_\_\_\_  
(county)

\_\_\_\_\_  
(address)

\_\_\_\_\_  
(city, state, zip code)

To Whom It May Concern:

Pursuant to I.C. I.C. § 34-28-2-3(c), I write to notify you that I, \_\_\_\_\_,  
(current legal name)

Date of birth \_\_\_\_\_, filed a petition in the \_\_\_\_\_

County Court requesting that my name be changed to \_\_\_\_\_,  
(new name)

under case number \_\_\_\_\_. A hearing will be held on \_\_\_\_\_

at \_\_\_\_ am/pm. Any person has the right to appear at the hearing and file objections

Sincerely,

\_\_\_\_\_  
Signature

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

\_\_\_\_\_  
*(name of prosecuting attorney)*

Prosecuting Attorney

\_\_\_\_\_  
*(county)*

\_\_\_\_\_  
*(address)*

\_\_\_\_\_  
*(city, state, zip code)*

To Whom It May Concern:

Pursuant to I.C. I.C. § 34-28-2-3(c), I write to notify you that I, \_\_\_\_\_,  
*(current legal name)*

Date of birth \_\_\_\_\_, filed a petition in the \_\_\_\_\_

County Court requesting that my name be changed to \_\_\_\_\_,  
*(new name)*

under case number \_\_\_\_\_. A hearing will be held on \_\_\_\_\_

at \_\_\_\_ am/pm. Any person has the right to appear at the hearing and file objections

Sincerely,

\_\_\_\_\_  
Signature

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

Indiana State Police  
CJIS Section  
P.O. Box 6188  
Indianapolis, IN 46206

To Whom It May Concern:

Pursuant to I.C. § 34-28-2-3(c), I write to notify you that I, \_\_\_\_\_,  
*(current legal name)*

Date of birth \_\_\_\_\_, filed a petition in the \_\_\_\_\_

County Court requesting that my name be changed to \_\_\_\_\_,  
*(new name)*

under case number \_\_\_\_\_. A hearing will be held on \_\_\_\_\_

at \_\_\_\_ am/pm. Any person has the right to appear at the hearing and file objections

My residential and mailing address is: \_\_\_\_\_.  
*(address city, state zip code)*

My physical description is: I am \_\_\_\_\_ tall and weigh \_\_\_\_\_ pounds.

My eyes are \_\_\_\_\_ and my hair is \_\_\_\_\_ and my race is \_\_\_\_\_.  
*(color)* *(color)*

A full set of fingerprints are included with this notice.

Pursuant to I.C. § 34-28-2-3(e), a copy of my criminal history information must be forwarded to the

\_\_\_\_\_ County Court.  
*(county your case is in)*

Sincerely,

\_\_\_\_\_  
Signature

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