

ID PLEASE. . .

A Guide to Changing California & Federal Identity Documents to Match Your Gender Identity



Transgender Law Center

Making Authentic Lives Possible

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I. Introduction

This guide was created to help you navigate through the oftentimes confusing process of obtaining California and federal identification documents that match your gender identity. It is designed to be used without the assistance of an attorney. However, in some cases it may be quickest or easiest to work with one.

The information in this guide should not be considered to be legal advice. This guide provides you with legal information, but does not seek to apply that information to your specific situation. We've tried very hard to make sure that this resource is accurate and up-to-date. Still, the changing nature of laws and policies concerning identity documents makes 100% accuracy nearly impossible.

If you have a question about your specific legal needs and you live in California or you were born here, feel free to contact the Transgender Law Center at (415) 865-0176 or info@transgenderlawcenter.org and we'll do our best to answer your question or point you to resources that may be helpful.

II. Getting Started – Common Questions

▪ Why is this process such a pain?

Many people are surprised to discover that there is no “one stop” process for getting a name and/or gender marker updated to match their gender identity. This is because each of the agencies that issues identity documents or keeps records about your identity has separate (but increasingly networked) systems and there is no central government agency which coordinates all of these databases.



While it has never been easy to make these changes, it used to be a bit easier --especially regarding changes to an individual's name. When the Transgender Law Center first opened in 2002, all you needed to do in order to receive a new California driver's license or state ID in your currently used name and gender was to have a doctor complete a form. Once you got a California ID, you could then go and update your Social Security records (at least your name), your bank records, and your most current student or social service records. Within 5 years, you could get a passport with the correct name. All of this could be done without ever going to court.

Then things changed. The changes were due to concerns around identity theft and national security. As a result, most state and federal agencies began to tighten up their policies and/or practices regarding name changes. The Social Security Administration also significantly toughened their gender marker change policies.

While the *name change* process was easier in the past, obtaining recognition of your *gender identity* as your legal gender (for instance, someone who is female-

to-male getting identification with an “M” gender marker) has always been somewhat difficult. Many policies were, and still are, premised on the idea that you can only get proper identification that reflects your gender identity when you can show that you’ve undergone surgery. Clearly, such policies don’t represent the actual experience of many transgender people, especially if the policy requires proof of genital surgery.

The inclusion of such policies in this guide in no way means that the Transgender Law Center approves or supports them. Long-term transgender rights strategies are being developed to win better recognition of people’s identity. But, until those efforts are successful, people have to deal with the policies that are in place and this guide should help you do so.

- **If I follow these steps, will my old identity be a complete secret?**

However you may feel about the political need to be “out” as transgender, it is understandable that some people would choose to be in control of how “out” they are. Arguably, people who changed all of their documents as recently as ten years ago had a reasonable expectation that their old identity would be buried after that change. Unfortunately, as our society becomes more and more connected through computers, your ability to remain in control of information about your identity is greatly reduced.

You can see this most clearly in records from credit reporting bureaus. While the bureaus are supposed to change your name once you prove to them that you have obtained a court ordered name change order, your old name is often kept as a part of your record for quite some time. It is unclear how long your old name will be kept on record or for how long it can be disclosed to a third party. But what is not disputed is that the bureaus consider this information to be valuable data that makes your record more marketable – not because it identifies who is and who isn’t transgender, but simply because it allows them to provide clients with a more “complete” record.

Unfortunately, although the Transgender Law Center focuses aggressively on strengthening anti-discrimination laws, we are increasingly unable to help people choose when, or if, to disclose their old name and birth gender. Despite this, we still have more tools in California to confront the increased risk of discrimination that sometimes comes from disclosure.

- **In what order should I change my documents?**

There is no one correct process for changing your documents to reflect your gender identity, in part because people may not want to change all their documents, and in part because not all documents may be able to be changed. Nevertheless, we have created a model pathway called “Steps to Changing ID Documents” to illustrate a possible route that you can take (included **on page 8**).

We have organized the guide to reflect the route in the model pathway because it provides the cleanest steps to getting recognition of your identity. It emphasizes a court-ordered name change because we believe that it is

increasingly important that everyone get one. And while a California driver's license or state ID card is the *easiest* identity document to change for most people, we list that process *after* the court order process and the social security process, for reasons we will explain further in the guide.

- **If I am from outside of California, can I still use this guide?**

This guide was created for individuals who live in California. If you were born in California but now live somewhere else, the section addressing how to change your name and gender marker on a California birth certificate applies, as do the sections on changing a Social Security record, U.S. passport, and other citizenship and immigration documents. As always, if you live outside of California, it is important that you use the formal or informal resources available within your own state to supplement the information in this guide.

If you were born outside of California, but now live here, you will likely find everything but the birth certificate section to be relevant.

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

In California, most of the policies or laws around ID changes require that you be over the age of 18 or an emancipated minor in order to change your identity documents. If you are under 18 and not emancipated, you'll need to have the approval of your parent(s) or guardian(s). We've tried to note when this is the case. As always, if you have questions, email or call us.



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Steps to Changing Your ID Documents: A Model Pathway

This route is recommended if you are changing both your name and gender as a part of your transition. If you are not changing your name, you can skip some steps:

- 1. Go to Court**
See [pages 9-21](#) for information about going to a California court to get your change of name and/or change of gender court order(s).
- 2. Go to the Social Security Administration**
See [pages 22-25](#) for information about the documents you'll need to update information in your Social Security Administration records and on your Social Security card.
- 3. Go to the California Department of Motor Vehicles**
See [pages 26-32](#) for information about getting your name and/or gender changed on your driver's license or state ID.
- 4. Update Passport, Birth Certificate, and Non-Government Records**
See [pages 32-49](#) for information about getting your name and/or gender changed on these additional documents. The order in which you change your passport (if you have one), your birth certificate (if you choose to do so), and your non-government records will vary. However, with your name change court order, your DMV identification, and/or your surgeon's letter, you should be able to change your name and gender on all of these documents.

Special Circumstances:

- **School records**
If you are currently enrolled in a K-12 school, vocational program, college or university, you should request that your school records be updated as soon as you have your court-ordered name change. In some circumstance, you can request that some of your school records be changed prior to getting a court order. You may or may not be able to update diplomas or other school records from your past (see [page 47](#) for more information).
- **Immigration records**
Most immigration documents can be updated with a court order and/or surgeon's letter (see [pages 36-40](#) for more information). If you have immigration documents, it may make changing your Social Security Administration records easier if you change your immigration documents between Steps 1 and 2 above.

III. Court Orders

- **What is a court order?**

A court order means that the state of California has recognized your change of name and gender.¹ While it may be possible to change the gender marker on some forms of ID without a court order (such as driver's license), many other forms require the court order (such as California birth certificate) and nearly all forms of ID require that a person have a court-ordered name change. As a result, obtaining a court-ordered name and gender change is the surest way for a person to legally change their name and gender.

To obtain a court order, you will need to complete the required forms, file them with the Superior Court in the county where you live and pay the filing fee or get a fee waiver. After you have filed the forms, the court will review them and usually will hold a hearing, at which you are required to appear. If all the paperwork is complete and you have met all required legal criteria (including a notice of publication if you are changing your name), the Court will issue an order after the hearing changing your name and/or gender. You can then use certified copies of this order to change your name on most identity documents.

- **Orders recognizing a change of name and/or gender**

In California, your right to change your name is completely independent from your transgender status. You do not need to demonstrate that you have undergone any medical procedures or mental health services to change your name. This is true even if you are changing your name from one that is traditionally female (e.g., Loretta) to one that is traditionally male (e.g., Andrew). In very rare cases, a judge may ask you questions about medical care. Below, we offer some tips for dealing with poorly informed or combative judges.

You may also be able to get a court order recognizing your change of gender as well as one for a change of name. In obtain a court ordered gender change, the law requires that you provide documentation from a physician that you have undergone "clinical appropriate treatment" for your gender change. If you have questions about your own situation, you should call or email us.

There are three different ways you can ask the court for these orders. Each way now has its own set of court forms that we describe in more detail

¹ The courts use the phrase "change of gender." We know this phrase does not accurately reflect the process of transitioning for many transgender people. We use it here simply for the sake of clarity.

below: change of name only (NC-100 series); change of name and gender (NC-200 series); change of gender only (NC-300 series).

▪ **How much will a court order cost?**

The county courthouse will charge you a fee for filing your petition for a court order. As of July 2011, the fee across the state is \$395 (with the exception of San Francisco and Riverside counties, where the fee is \$410). A list of the filing fees for all California Superior Courts can be found here: <http://www.courts.ca.gov/filingfees.pdf>. Most counties have a website for their local Superior Court where you can double-check the current fee in your county. A list of the Superior Courts with links to their contact information can be found here: <http://www.courts.ca.gov/find-my-court.htm>.

The courts do offer a **fee waiver** for those who can't afford to pay the filing fee. (we've attached detailed instructions from the courts on who qualifies for a fee waiver, see Attachment A). If you currently receive certain public benefits such as food stamps, SSI (Supplemental Security Income) or Medi-Cal, you are automatically eligible for a fee waiver, otherwise you must provide the court with information about all of your income and expenses, and the judge will make a determination if you are eligible. Some courts are very open to waiving fees, but others are not. Again, it generally depends on the county in which you live. Some people wonder whether they have to pay a fee for a gender change order if they already have a name change order. The answer is usually yes. The reason for this is that you are filing two separate petitions (if you need to, you can request a second fee waiver). However, some individuals have been able to file *change of gender* paperwork under their previous *change of name* case number.² In a limited number of instances, the courts have accepted this paperwork as a supplement to the earlier petition and have not charged a new fee. You might want to check with the court clerk in the county where you filed your name change to see if it is possible to do this.

After the judge signs your court order for a name and/or gender change, you may want to get several certified copies of the order from the court clerk. Although you are not required to get more than one copy, many agencies (such as the U.S. Passport Agency and the Social Security Administration) require original certified copies of the order to change your name in their records. As a result, it is a good idea for you to get between two and four copies depending on the number of identity documents you want to change. Each county has a different fee for making certified copies. If you are approved for a Fee Waiver these copies are provided for free.

² The case number is in the upper right-hand corner of the order.

▪ **Special issues for court orders for people under 18**

If you are under the age of 18 and are not an emancipated minor, you need the permission of your parent or guardian in order to file a petition to change your name and/or gender. In fact, your parent or guardian must file the petition on your behalf.

It is best if your parents are willing to file the petition jointly. If they are not, the parent filing the petition must take extra steps required by the court (like mailing a “notice” of the proposed name and/or gender change to the other parent). While the other parent can object, we have not seen any cases where a judge has denied a change of name petition simply because one parent objects. However, it is possible that a judge may do this. If it happens to you, please contact the Transgender Law Center.

If you are petitioning for a *change of gender only* court order, if possible, it is a good idea for you as a minor to include a declaration explaining why a change of gender is appropriate for you in addition to the required Physicians declaration. A declaration is simply a statement sworn under oath (the court has a form for this – MC-030³). While this type of declaration may not be necessary in the future, judges are currently not very used to seeing gender change petitions for minors. Having your declaration may answer any questions the judge has about your petition.

Parents and guardians go through slightly different steps when filing a minor’s petition. A parent clearly has the right to make this request. A guardian must make their rights clear to the judge. For that reason, a guardian has to submit additional forms (see checklist, [page 21](#)).

▪ **Must I publish an ad in the newspaper?**

Name Change Only

You are required to publish one of the petition forms in a newspaper of “general circulation” in the county where you currently reside. If you are filing a petition for a change of *name only* the form is called the Order to Show Cause and is form NC-120.⁴ Publishing this form is a step that everyone, regardless of whether they are transgender, must take when applying for a name change. Some transgender people think that doing so is an invasion of privacy and/or a safety risk.

While we hear these fears from community members occasionally, we’ve never had anyone report to us that he or she was harassed as a result of their name change publication. If you are really worried about the publication leading to physical harm or harassment, you can make an argument to the court that

³ The MC-030 form is available at: <http://www.courts.ca.gov/xbcr/cc/mc030.pdf>.

⁴ You cannot run the ad in just any newspaper, though. As we explain below, it has to be a newspaper of “general circulation” that has previously been authorized by the court system to run such ads.

publishing a notice will put you at risk of harm. It is a tough argument to win (we do not know of anyone who has been successful as of yet). It could also delay your court process by anywhere from 4 to 8 weeks. But if this is a significant concern of yours, making such an argument is the only way to get out of publishing the Order to Show Cause. If you are concerned about your privacy in general, the Court is not likely to waive the publication requirement.^{5 6}

Gender Change Only

The petition for a change of *gender only* court order there has no publication requirement. It simply requires that you file with the court a notice of your intent to change your gender (the proper form is the NC-320). Under California law there is no publication requirement for a change of gender only. However, some judges may disagree and tell you that you need to publish a form even for a change of gender only court order. If you are asked to publish a form for a change of gender only, please contact the Transgender Law Center and we can help you explain to the court why you do not have to do so.

Name and Gender Change

The Court has also created an Order to Show Cause form for when you request a change of name *and* gender at the same time (the form is the NC-220). Just as with a Name change only petition, you are also required to publish one of the Name & Gender change petition forms in a newspaper of "general circulation." The form is called the Order to Show Cause and is form NC-220.⁷

▪ Special name change issues for people in state prison, on parole, or required to register as sex offenders

California requires that any person who is in state prison or on parole get the permission of their warden or parole officer before a name change decree will be issued. Unfortunately, because approval for filing the paperwork is at the discretion of the warden, it is unlikely that most name change petitions by people who are currently incarcerated will be granted.⁸ There is no similar law for a gender change court order, but this is also unlikely.

⁵ The court may order that a record be filed under seal only if it expressly finds facts that establish: (1) There exists an overriding interest that overcomes the right of public access to the record; (2) the overriding interest supports sealing the record; (3) a substantial probability exists that the overriding interest will be prejudiced if the record is not sealed; (4) the proposed sealing is narrowly tailored; and (5) no less restrictive means exist to achieve the overriding interest. *California Rules of Court. Rule 2.550*. This is a very difficult standard to meet, and requires extraordinary circumstances.

⁶ If you have experienced Domestic Violence and you are concerned about the publication requirement because you don't want your abusive ex-partner to learn about your new name you may petition the court to file under the *Name Change Proceedings Under Address Confidentiality Program (Safe at Home)*. Additional information about this process can be found here:

<http://www.courtinfo.ca.gov/selfhelp/other/namechangeadult5.htm>.

⁷ You cannot run the ad in just any newspaper, though. As we explain below, it has to be a newspaper of "general circulation" that has previously been authorized by the court system to run such ads.

⁸ Cal. Civ. Proc. Code § 1279.5(b).

However, if you are on parole, you may be able to change your name and/or gender. Under California law your parole officer must determine whether your name change would pose a security risk to the community.⁹ While some parole officers have refused to grant permission because of the paperwork involved with changing a person's name in the state system, many are more reasonable and any parolee who is meeting their obligations will be considered for a name change.¹⁰ A copy of a model parole officer letter is included with this guide as **Attachment ?**.

State law also has special rules for someone who is required to register as a sex offender.¹¹ In this case, the court will change your name only if it determines that granting your petition "is in the best interest of justice" and will not adversely affect public safety. If your name change is granted by the court you must notify local authorities within five days.¹² While a person who is required to register as a sex offender does not need to get anyone's permission to change their name, a judge has more power to deny their petition if the judge thinks that the person is requesting the change of name due to their official status as a sex offender. If you are in this situation, it may be a good idea to get a letter from the police station at which you have to register supporting your request for a name change. This letter does not need to be anything more formal than the police officer's recognition of your request and the police officer's lack of opposition to your name change. This letter is not required, but it may be persuasive for the judge.

▪ **What steps does an individual take in order to obtain a court order?**

Step 1: Get the proper forms

In order to get any court order, you must complete the basic paperwork. You can get the necessary forms at your local county courthouse. You can also download them online. You'll need an updated version of Adobe Reader to do so (especially if you want to type in the information on-line and print out the documents).

The necessary forms are available directly from the California Courts website: <http://courtnfo.ca.gov/forms/> or <http://courtnfo.ca.gov/cgi-bin/forms.cgi>. When looking at the online forms, "fillable" means you can fill in the boxes on-line and print them out. "Printable" means you print the forms out blank and fill them in by hand.

Keep in mind that when you are asked to list your "current" name, that means your name at birth or a name you've legally adopted through a court order, marriage, or adoption (in which case you can list your name at birth as an FKA or Formerly Known As). You should also list this name wherever it asks for "petitioner;" even if you've been using your chosen name for a number of years

⁹ Cal Civ. Proc. Code § 1279.5(c).

¹⁰ People who are on probation from a county jail do NOT need the permission of their probation officer to file a name change.

¹¹ Under Cal. Penal Code § 290.

¹² Cal. Civ. Proc. Code § 1279.5(d).

and have identification in that name. One of the advantages of having a court order is that it ties your old name to your new name in an official way. You should put your chosen name wherever the form asks for “proposed” name. (See the attached examples of the name change (NC-200) series of forms we’ve included as **Attachment B**).

Whatever kind of court order you are seeking, you will always need to fill out a CM-010 *Civil Cover Sheet*. The CM-010 requires that you fill out some technical court information. When you view the form online, you should enter your information on the first page. A completed form is included in **Attachment B**. If you reside in Los Angeles County, you are also required to submit an additional Civil Case Cover Sheet Addendum. It is available online at the Los Angeles Superior Court website: <http://www.lasuperiorcourt.org/forms/pdf/LACIV109.pdf>

Also, the Los Angeles and Santa Clara County Superior Courts also require individuals to fill out a Criminal History Assessment Form as part of the name change process. If you reside in either of these counties you should download and complete the appropriate criminal history forms available at these websites:

- Los Angeles County - <http://www.lasuperiorcourt.org/forms/pdf/LACIV226.pdf>.
- Santa Clara County - http://www.scscourt.org/forms_and_filing/forms/PB-4010.pdf.

Step 2: Select a newspaper

You must pick a newspaper before filing if you are submitting either a NC-120 or NC-220 because you need to name the newspaper on this form. However, you don’t actually publish your name change form until after you file your paperwork at the courthouse. This is because the court clerk needs to return to you the form, called the Order to Show Cause, which you then must provide to the newspaper. You can choose any newspaper that is legally qualified to publish orders and notices in your county. For instance, if you live in Los Angeles County, you can publish your name change in Sherman Oaks even if you live in Long Beach.

Newspapers charge varying fees for publishing name change notices, so you can check around for the best price. The easiest way to find a list of approved newspapers in your county (remember it can’t be just any newspaper; it must be a newspaper of “general circulation”) is to do a web search with some keywords like “newspapers general circulation Superior Court (your county’s name) county.” Not all counties have this information on-line. If that is the case in your county, you should ask the clerk at your courthouse for a list. The following website has the contact information for each county’s courthouse:

<http://www.courts.ca.gov/find-my-court.htm>.

Once you have selected your newspaper, write the name of it on NC-120 or NC-220 in line 3a.

Step 3: File the forms at the courthouse

After completing your forms, you should make two copies of all forms (except the Civil Case Cover Sheet, of which you don't need any copies). You may not need this many, but it is good to have multiple copies just in case. Your paperwork must be filed in the Superior Court in the county where you live. Many larger counties have multiple courthouses that handle different types of cases; you should contact the court clerk to find out which court location is the correct one for filing a name and/or gender change.

It may be possible for you to file your petition for a name and/or gender change by mail. To do this, you need to fill out the requisite forms, complete with the newspaper designation for the Order to Show Cause for a name change, include a check for the fee amount (or your request for a fee waiver), additional copies of the forms and a self-addressed return envelope with postage paid. This enables the clerk to return your copies and notify you of your hearing date. To be safe, you may want to contact your county's Superior Court and ask if it allows people to file name and/or gender change petitions by mail and, if so, what the exact procedure is.

Unless you are submitting a request for a fee waiver, you should expect to pay your filing fee when you submit your paperwork. If you are submitting a request for a fee waiver, you will either be told on the spot if your fee is waived or informed by mail. If it's not waived and you disagree with the decision, you should ask to speak to the judge and explain why you need a waiver.

When you file your paperwork, you will receive a date for your court hearing (the clerk will write it on your NC-120, NC-220, or NC-320 form. Depending on the courthouse's current workload, your hearing date may be scheduled somewhere between 6 and 10 weeks from the day you file.

Step 3a: Special paperwork for change of gender petitions

If you are requesting a court order that includes recognition of your change of gender, you'll also need to submit a declaration from your doctor that serves as proof that you have had clinically appropriate treatment for your gender change. There is no specific treatment that constitutes "clinically appropriate" treatment – this is up to a doctor to determine. In order to be valid, the declaration must include a statement signed under penalty of perjury of the law of the State of California. This means that the surgeon or doctor can get in trouble if anything in the declaration is intentionally untrue.

The declaration can come directly from your doctor (see **Attachment C** for an example). The declaration can be a typed and signed on the doctor's letterhead, on a plain sheet of papers, or it may be written and signed on the NC-210/NC-310 form itself. If the declaration is not directly on the form, write "Please see attached affidavit from Dr. XX" on the NC-210/310 form (see **Attachment B**).

Step 4: Publish the Order to Show Cause

After you file your paperwork, the court clerk will write the case number and the time, date, and location of the hearing on the NC-120 or NC-220 form (if you are asking for a change of name). You will need to get this form to the newspaper you have selected. While many people take the form over to the newspaper in person, most newspapers will also allow people to fax or mail the request.

Step 5: Attend the court hearing

Currently, most counties require the petitioner or an attorney to appear for the hearing. More and more counties, however, are issuing the orders without a hearing if no one files an objection to the petition. When you file your paperwork, you should ask the court clerk what your county's practice is.

The court hearing should be a relatively easy process. You should bring copies of all of your paperwork with you. It is especially important that you bring two things: your decree (see below) and proof that the newspaper ran your Order to Show Cause if you are petitioning for a name change. This is also called a "Proof of Publication."

Depending on what kind of order you are requesting from the court, your decree is either the NC-130, 230, or 330 (in the case of the NC-330, it's called an "order").

Also, you should bring or make sure the court already has received a Proof of Publication. This is the form that the newspaper should both mail to the court and to you directly after your Order to Show Cause has run for four consecutive weeks. It proves that the newspaper published your name change. If you haven't received a copy of it one week prior to your hearing, you should call the newspaper and make sure that it was filed. If the newspaper did not send the proof of publication to the court already, you should ask it to send you a copy directly and take it with you on the day of your hearing.

The judge may ask you a few questions regarding your paperwork at the hearing. Note that the clerk or judge is likely to call you by your old name because that is the name on your petition. If you are concerned about your privacy, you can ask the clerk to hold your petition until last. It's up to the clerk whether he or she will honor the request but it is worth asking if you would like to increase your privacy.

Many California judges do a great job of providing a supportive and non-discriminatory environment in courtrooms for transgender people. However, in rare cases, judges have misunderstood California law regarding name or gender change court orders or have let their personal beliefs about your ability to transition interfere with their duty. On the next page are five tips for how to deal with these *rare* problems.

Step 6: Get copies of your completed order

Once you have completed your hearing, remember to get 2 - 4 certified copies of your court order.

Dealing with Difficult Judges: Possible Scenarios and Suggested Responses

Example A: In a name change only hearing, Judge is trying to help, but instead gets in the way.

Judge: Petitioner, you should have submitted the paperwork for both a change of name and gender. Do you have the physician's affidavit?

Petitioner: Your honor, I do not at this time [want to request/meet the legal standard for] a change of gender. I'd like to have you rule on my change of name petition only.

Example B: In a name change only hearing, Judge is being too nosy (although this person could just be the Judge in the previous example but without the social skills).

Judge: Petitioner, have you had the surgery/do you have a doctor's letter?

Petitioner: Your honor, I've provided all of the paperwork required by law for a change of name. I am not at this time requesting a change of gender. Therefore, I do not need to answer any personal medical questions. I would ask that you approve the petition as filed.

Example C: In a hearing for change of gender, Judge wants more evidence (although this may not necessarily be a judge who is misinformed or combative, but may just be someone who does not have experience with the changes in California law regarding change of gender).

Judge: Petitioner, I've read your doctor's letter and don't see anywhere that it states that you have had genital surgery. Have you had genital surgery?

(A person's answer here depends a lot on their personal comfort with disclosing their private medical information and the facts of their case. Any of the following are appropriate, but a lot of other responses can be used as well.)

Petitioner: Your honor, the new gender change law that went into effect on January 1, 2012 says that I must attach a declaration from my physician stating that I have had clinically appropriate treatment for gender change, and does not require that I present any additional information about this treatment. I believe that the letter from my surgeon is sufficient for this petition.

Petitioner: Your honor, if you have particular questions beyond the letter from my doctor, I'd ask that we discuss them in your chambers or in closed court.

Petitioner: Your honor, I don't believe that question is relevant to this hearing. I have provided the information required by the law and would respectfully ask that you grant the order.

Example D: Judge is generically acting badly like using improper language to address you OR isn't swayed by one of the above responses.

The below answer can be used on its own or in combination with any of the above.

Petitioner: Your honor, these are questions I'm unprepared to answer [at this time/on my own], I'd like to request a continuance so I can secure legal representation.

When an individual asks for a "continuance" they are asking for the judge to reschedule their hearing for a later date. In general, the Transgender Law Center is happy to represent anyone in court who needs to ask for a continuance and will make every effort to have staff available for a court hearing. Individuals should feel free to call us to discuss their cases and to see if we can help.

▪ Court Order Check Lists

Court Order Name Change Only Check List

- ⇒ Obtain and complete the paperwork
 - ☐ CM-010
 - ☐ NC-100
 - ☐ NC-110
 - ☐ NC-120
 - ☐ NC-130
 - ☐ FW-001 and FW-003 – if needed to apply for a fee waiver
 - ☐ *Any additional forms for your county*
- ⇒ Choose your newspaper
- ⇒ File the forms at your county courthouse and pay the fee (if necessary)
- ⇒ Receive your court hearing date
- ⇒ Publish the NC-120 in a court approved newspaper in your county for four weeks
- ⇒ Attend your court hearing (if necessary)

Court Order Name and Gender Change Check List

- ⇒ Obtain and complete the paperwork
 - ☐ CM-010
 - ☐ NC-200
 - ☐ NC-110
 - ☐ NC-210/NC-310
 - ☐ NC-220 (or possibly the NC-120 and NC-320, see above)
 - ☐ NC-230
 - ☐ FW-001 and FW-003 – if needed to apply for a fee waiver
 - ☐ *Any additional forms for your county*
- ⇒ Get an affidavit from your physician (on letterhead or the NC-210)
- ⇒ File the forms and affidavit at your county courthouse and pay the fee (if necessary)
- ⇒ Receive your court hearing date
- ⇒ Publish the Order to Show Cause form in a court approved newspaper in your county for four weeks
- ⇒ Attend your court hearing (if necessary)

Court Order Gender Change Check List

- ⇒ Obtain the proper forms
 - CM-010
 - NC-300
 - NC-210/NC-310
 - NC-320
 - NC-330
 - FW-001 and FW-003 – if needed to apply for a fee waiver
- ⇒ Get an affidavit from your physician (on letterhead or the NC-210)
- ⇒ File the forms and affidavit at your county courthouse and pay the fee (if necessary)
- ⇒ Receive your court hearing date
- ⇒ Attend your court hearing (if necessary)

Additional Check List for Minors

(While these forms generally apply to someone using the NC-100 forms, anyone using the NC-200 or NC-300 should consider using these as well):

- ⇒ Obtain the proper forms
 - NC-110G (Necessary for a guardian to show your legal right to make this decision, not necessary for a parent)
 - NC-121 (Only necessary if both parents or all legal guardians fail to complete the form as the petitioner. See below for more information)
 - NC-130G (Necessary for a name change by a guardian, not necessary for a parent)
 - MC-030 (Declaration form for a minor to explain why the change of gender petition is appropriate for her or him, not required)
- ⇒ If necessary, serve a copy of the NC-120 on the other parent or other legal guardian and complete the NC-121 for the judge.

IV. Social Security Administration

▪ Name Change

We recommend that after you obtain your court order, you next go to the Social Security Administration (SSA) to change your records and get a new Social Security card. Having your Social Security information changed will make changing your California driver's license or state ID easier. Additionally, changing your name and gender with the Social Security Administration may alleviate some workplace issues.

The SSA now requires an individual to have a "legal" name change in order to change your name on your Social Security records. This is a change in policy that was put into place in late 2005. Although California still honors common law name changes, many state and federal agencies, as well as many financial institutions, will not change your name on your records unless you have a court order because they cannot verify the link between your old and new identities. (For more on Common Law Name Changes, see [pages 30-31](#)).

In most cases, a "legal" name change means a court order. Generally, the only other methods of name change that the SSA will accept are by marriage, adoption, divorce, or Certificate of Naturalization.

The following information about name changes comes directly from the SSA website.¹³ The following steps are required to amend your information with Social Security.

1. Complete an *Application For A Social Security Card* (Form SS-5); *¹⁴
2. Show proof of your:
 1. U.S. citizenship (if you have not previously established your citizenship) or immigration status;
 2. Legal name change; and
 3. Identity**
3. Take your completed application and documents to your local SSA office (you can find a list at: <https://s044a90.ssa.gov/apps6z/FOLO/fo001.jsp>). You can also mail you to the SSA.)
4. All documents you submit must be either originals or copies certified by the issuing agency. The SSA won't accept photocopies or notarized copies of documents.

*** When completing the form SS-5, list your new court-ordered name.**

¹³ http://ssa-custhelp.ssa.gov/cgi-bin/ssa.cfg/php/enduser/std_adp.php?p_faqid=315. In case this link has changed, an individual can also go to www.ssa.gov and look under "Marriage, Divorce and Name Changes."

¹⁴ The SS-5 form is available at <http://www.socialsecurity.gov/online/ss-5.html> or an individual may be able to get one at a Social Security office.

**** Possible additional documentation requirements to verify identity**

The SSA has a policy that requires you to show additional identification if it cannot match your old name with your current identity. Recently, we have heard from individuals who have had problems as a result of this policy, which is outlined below. The policy is available on the SSA website:

“If the document you provide as evidence of a legal name change does not give us enough information to identify you in our records or if you legally changed your name more than two years ago, you must provide us with additional documentation. In addition to showing us a legal document citing your new name, such as a court order, you must provide us with two identity documents, including:

- One identity document in your old name (which can be expired); and
- One identity document in your new legal name, which must be current (unexpired).

Both of these documents must show identifying information or a recent photograph. ”

If you experience difficulty with this policy, please contact the Transgender Law Center. There is usually a small fee for getting a new Social Security card.

▪ Gender Change

Even though your Social Security card does not list your gender, and even though you do not need to change your gender with Social Security to change your gender on your California driver’s license or state ID, it can still be important to change your gender on your SSA account. This is because other agencies and entities may look to Social Security to verify your gender. To change your gender on your Social Security records, the SSA now requires you to present a surgeon or doctor’s affidavit verifying that your “sex change surgery has been completed”¹⁵ (see included **Attachments E and F** for examples). Like most agencies, the Social Security Agency does not specify what you mean by “completed.” If you have questions about your particular situation, please contact the Transgender Law Center.

In some limited situations, people have been told that the SSA will accept a gender change court order in place of an original letter from a surgeon or doctor. We have not seen this policy in writing from the SSA, but individuals should ask at your local SSA office to see if a California court order is sufficient evidence.

▪ Special issues for people under 18

Just like in most other situations, if you are under 18 and are not emancipated, you will need the permission of your parents or guardians in order to change your name on an SSA account.

¹⁵ To view the current SSA gender change policy go to: http://ssa-custhelp.ssa.gov/app/answers/detail/a_id/1667/~/_correct-or-change-gender-on-your-social-security-record

- **Special information for people with SSI/SSDI accounts**

Changing your name and/or gender marker in your SSA account will not change your information in your SSI/SSDI (Social Security Disability Insurance) account. If you have an SSI/SSDI account, you should tell the SSA to change your name and/or gender on this account as well. If you have an SSI/SSDI account AND Medi-Cal, changing your name and/or gender marker in your SSI/SSDI account will change your information with Medi-Cal. The SSA calls this “SSI linked Medi-Cal.” However, it is a good idea to remind SSA to forward the name change information to Medi-Cal just to make sure it gets changed.

- **Special information for people with Medi-Cal**

If you have Medi-Cal ONLY (and not SSI/SSDI) changing your name and/or gender marker in your SSA account will NOT change your information with Medi-Cal. If this is the case, you need to contact both the SSA and Medi-Cal to change your name with each agency.

If you fail to change this information, you may experience problems when trying to use your Medi-Cal or Medicare benefits. Both agencies are generally good about changing name and/or gender markers on a person’s records. However, if you make the change with the SSA and then fail to do so with SSI/SSDI, it is possible that your name and/or gender in your Medi-Cal or Medicare records will get changed back when a routine records check is done.

- **Special information for people with immigration documents**

It is a good idea for you to change your name and/or gender with U.S. Citizenship and Immigration Services (USCIS) before going to the SSA. This is because the SSA now verifies a person’s immigration status when they change the name in their SSA records. If your new name is already in your immigration service records and on your immigration documents, it should speed up the verification process.

Troubleshooting the SSA

Like most agencies, you may find that you have problems getting what you need from the SSA. Sometimes, those problems are the result of an SSA employee who does not understand the SSA’s policies or who has some bias against transgender people.

You should always try your hardest to keep your cool in one of these situations and always politely ask for a supervisor. While it is tempting to be confrontational with the person behind the counter, it rarely helps the situation in the long run. This can be especially true in an agency like the SSA, where the clerks are all serving a lot of customers and are used to being yelled at.

If you are unable to get resolution at a particular office, you should call the Transgender Law Center. We have been somewhat successful in getting advocates into some SSA offices to do trainings for staff. And, if you live

somewhere that has a number of SSA offices, you should not hesitate to try getting better service by going to a different office or a different employee at the same office.

▪ **SSA Check Lists**

Social Security Name Change Check List

- ☐ Get a court order name change (or one of the other required documents)
- ☐ Complete and submit the SS-5 form with a certified copy of your court order at an SSA office and pay fee (if any)

Social Security Name and Gender Change Check List

- ☐ Get a court order name change (or one of the other required documents)
- ☐ Get an affidavit from your surgeon or physician verifying that your “sex change surgery has been completed”
- ☐ Complete and submit the SS-5 form with your documentation at an SSA office and pay fee (if any)

Social Security Gender Change Check List

- ☐ Get an affidavit from your surgeon or physician verifying that your “sex change surgery has been completed”
- ☐ Complete and submit the SS-5 form with your documentation at an SSA office and pay fee (if any)

V. California Department of Motor Vehicles

▪ **California Driver’s License or State ID**

Effective May 2009, the California Department of Motor Vehicles (“DMV”) implemented a new process for changing the name and gender marker on a California driver’s license. There is no longer a single form that you can use to simultaneously change both your name and your gender. After May 2009, you must submit form DL 329 to change your gender, and form DL 44 to change your name. Fortunately, you still do not need to have undergone any specific medical treatment (i.e. there is no requirement that you’ve undergone hormone therapy, mental health services, or surgery) in order to change your gender marker using form DL 329.

In addition to completing DL 44, you now must obtain a court-ordered name change in order to change your name on your California driver’s License or state ID. This is because the DMV links its computer system with the Social Security Administration’s (SSA) computer system to verify the information on a driver’s license application, and as discussed in the SSA section above, you must have a

court order (or other approved evidence) in order to change your name with the SSA.

As a result, if you want to get a California driver's license or state ID in a name different than your name on record with the SSA (usually your birth name), you must first obtain a court-ordered name change and change your name with the SSA. This requirement applies to California residents seeking to change their existing California driver's licenses, as well to people who are moving to California from out of state and wish to obtain a California driver's license in a name different than the one appearing on their out of state ID. If you have any questions about the process, please contact the Transgender Law Center.

▪ **Special DMV issues for people under 18**

If you are under 18 and are not emancipated, you need a parent or guardian's permission to change your name and gender on your California driver's license, provisional driver's license, or state ID card. The steps for doing so are nearly identical to those followed by an adult.

To change your name if you are under age 18, you must first obtain a valid court-ordered name change. Please see the previous section on "Special Issues for Court Orders for People Under 18" for instructions on how to obtain a court-ordered name change. A parent or guardian must then complete DL 44 and submit it to the DMV along with a copy of the name change court order. To change your gender marker if you are under 18, you must have a physician complete DL 329 and submit it to the DMV. It is also a good idea if both you and your parent or guardian sign the DL 329.

▪ **Steps for Changing Your Gender with the DMV**

Step 1: Obtain an original Form DL 329

Obtain the DMV Medical Certification and Authorization (Gender Change) Form DL 329, which is available at a local DMV or can be downloaded from the DMV website: <http://www.dmv.ca.gov/forms/dl/dl329.pdf>.

Step 2: Complete a Form DL 329 and have your licensed U.S. physician or psychologist complete and sign it.

This form is somewhat complicated. Working with the DMV, we have created instructions for completing it (included as Attachment G and listed below). However, it is still important that you work with your physician or psychologist to ensure that it is completed correctly. Make sure that your physician or psychologist fills in EVERY line on the form. No line should be left blank. The DMV will send back any form that has a blank line.

If the form requires information that the physician or psychologist doesn't have or is not relevant, the line

should be marked with "N/A." For example, some doctors do not have medical case numbers and instead file their cases under a patient's last name. If this is true for your doctor, they should write your last name on this line. Also, when a physician or psychologist signs the form at the bottom, make sure they list M.D. or Ph.D. after their name.

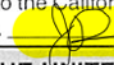
Section 1

Fill in all the requested information. Remember to fill in every line of the form.

SECTION 1 – APPLICANT'S TRUE FULL NAME (TO BE COMPLETED BY THE APPLICANT)					
LAST DOE	FIRST JOHN	MIDDLE QUINCY	DATE OF BIRTH (MM.DD.YYYY) 02-29-1976		
MAILING ADDRESS 123 MAIN STREET, SAN FRANCISCO, CA		CITY SAN FRANCISCO	STATE CA	ZIP CODE 94114	CALIFORNIA DRIVER LICENSE/IDENTIFICATION CARD NUMBER A 99999X
RESIDENCE ADDRESS (IF DIFFERENT FROM MAILING ADDRESS) SAME AS ABOVE		CITY	STATE	ZIP CODE	
DAYTIME TELEPHONE NUMBER (415) 555-5555			SOCIAL SECURITY NUMBER 010-00-9999		

Section 2

You should sign your name stating under penalty of perjury that all the information is correct. Do not forget to sign your initials on the small line on the lower right side of the box authorizing your physician or psychologist to release relevant information to the DMV if necessary. A physician or psychologist must now complete the rest of the form.

ION
any person are confidential and not open to public inspection
lease the information below to the California Department of Motor under my preferred gender.  (Applicant's Initials)
OGIST LICENSED IN THE UNITED STATES

Section 3

A physician or psychologist must designate whether, in their professional opinion, your "gender identification" and "demeanor" are male or female. A physician or psychologist must also designate whether your gender identification is "complete" or "transitional." Opinions vary on when to check which box. The Transgender Law Center's opinion is that as soon as you are expressing your gender identity full-time, (regardless of whether you have accessed hormones or surgery) and plan to continue expressing it, your doctor should mark "complete." If your doctor has any questions about this, please let them know that we would be happy to speak with them about it.

Only a physician licensed in the United States can certify that gender identification is complete.	
Gender identification is:	<input checked="" type="checkbox"/> Complete <input type="checkbox"/> Transitional
TO BE COMPLETED BY A PHYSICIAN/PSYCHOLOGIST LICENSED IN THE UNITED STATES	

Note: If your physician or psychologist indicates on your DL 329 that your gender identification is "transitional," you are required to submit a new form DL 329 every 5 years. If a new form DL 329 is not submitted, your original gender marker will be restored. Additionally, if your gender identification is marked as transitional, the DMV will maintain both sets of data, as well as your male and female gender records, in the DMV computer system. Under certain circumstances, both records may be visible to third parties, such as auto insurers. Once your gender

identification is designated “complete,” the DMV erases your previous name and gender from its records except in an encrypted internal format visible only to DMV staff.

Only a physician (and not a psychologist) licensed in U.S. can certify that your gender identification is “complete.” If your physician indicates on your DL 329 that your gender identification is “complete,” you will not be required to submit new information about your gender to obtain a new or renewed license.

Step 3: Submit the completed Form DL 329 & pay the application fee

Finally, the DMV office where you submit the form needs to sign the form and stamp it in the bottom right corner. If the office forgets to sign and stamp the form and submits it to the DMV processing center in Sacramento, the form will be returned to you and you will be asked to return to the DMV to have them sign and stamp the form. Save yourself a second trip and politely ask the DMV staff member who is processing your form to make sure it is stamped AND signed.

The fee for changing the gender marker on a California Driver’s License as of July 2011 is \$31. To see a list of the fees for driver’s license applications go to the following web address:

http://www.dmv.ca.gov/dl/fees/driverlicense_fees.htm#classc.

Step 4: Wait for the license or ID

The DMV will issue you a paper record of your application for a new license at the time you submit your forms, and it may ask you to submit your old license or identification card as well. The DMV will mail your actual plastic license or ID about two weeks after processing your application. You should plan accordingly so that you are not traveling by airplane or train or leaving the country during the time you are waiting for your license or ID.

▪ Steps for Changing Your Name with the DMV

Step 1: Complete an original *DL 44* application

You must complete and submit an *original* Form DL 44, which can be obtained at a local DMV office, or by calling the DMV’s automated line 800-777-0133 and requesting that the form be mailed to you. Form DL 44 is not available online because each form has a unique barcode. You may need to provide additional documentation to ensure that the name provided on the application is your true full name. The most common and acceptable form of additional documentation is a court-ordered name change.

Other types of acceptable additional documentation include a birth certificate, passport, military ID card, U.S. naturalization certificate, American Indian card, or U.S. citizenship card. Birth and identity documents from other countries may also qualify. HOWEVER, this additional form of identification must state your current true name as you want it to appear on your driver’s license. It cannot be your birth or other former name.

Other types of acceptable information include official judicial decrees such as an adoption decree, a marriage certificate, a dissolution of marriage certificate, a domestic partnership registration certificate or declaration, or a dissolution of domestic partnership certificate of judgment. Again, this additional form of identification must state your current true name as you want it to appear on your driver's license. It cannot be your birth or other former name.

▪ **A Note about Common Law Name Changes**

Under California law, you have the legal right (*with some restrictions*) to change your name by the common law or usage method. In order to do so, a person would adopt a new name and use it continuously and exclusively for a period of time. While this method is still *technically* a legal way to change a name in California (see included decision by California's Attorney General on this issue at **Attachment H**), it is one that is becoming harder and harder to use.

However, the common law or usage method is always unavailable to inmates, parolees, and registered sex offenders.¹⁶

Some people continue to want to use a common law name change because it is quicker, cheaper, and more anonymous than getting a court order. However, more government agencies are refusing to recognize this method of change. While many financial institutions have long been suspicious of common law name changes, a recent federal law, the Patriot Act, is being interpreted by many agencies as requiring a court order for all name changes. At this time, most financial institutions, California DMV and the Social Security Administration will recognize only a court-ordered name change.

For these reasons, we are urging people to consider obtaining a court-ordered name change. If you choose to do a common law name change, you should know that you are likely to face stiff resistance in changing most of your identity documents.

▪ **Vehicle Registration Information**

If you change your name on your driver's license, it will not automatically change your name on your vehicle registration information. You will have to change your name on this record after you have legally changed your name or have changed it as a result of marriage or divorce. Following is a step-by-step guide to how to change your name on your vehicle registration information.

Step 1: Submit a California Certificate of Title for the vehicle

Submit to the DMV (or to its licensed agent, such as AAA) a California Certificate of Title for your vehicle with your full correct name printed or typed in the "New Registered Owner" section.

¹⁶ California Code of Civil Procedure § 1279.5(a).

Step 2: Complete the *Statement of Facts for Name* (REG 256) section on a Statement of Facts

You must also complete and submit a *Statement of Facts for Name* form (REG 256). On the form, you must indicate the reason for the change and sign the bottom of the form. The *Statement of Facts* form can be found at: www.dmv.ca.gov/forms/reg/reg256.pdf.

You should fill out parts F and G (including your reason for your name change). There is no cost to make a name change to your Certificate of Title. If you have any other issues with your title/vehicle registration, you may want to consult the DMV website at: <http://www.dmv.ca.gov/pubs/brochures/howto/htvr17.htm>.

▪ DMV Check Lists

Name Change Only

- ☐ Complete an original *DL 44*
- ☐ Include certified copy of your name change
- ☐ Submit the forms and pay the application fee

Gender Marker Change Only

- ☐ Complete an original *DL 44*
- ☐ Have a physician or psychologist complete the *DL-329*
- ☐ Submit the forms and pay the application fee

Name and Gender Marker Change

- ☐ Complete an original *DL 44*
- ☐ Have a physician or psychologist complete the *DL-329*
- ☐ Include a certified copy of your name change
- ☐ Submit the forms and pay the application fee

Vehicle Registration

- ☐ Complete the New Registered Owner section of your CA Certificate of Title
- ☐ Complete a *REG 256*
- ☐ Submit the forms

VI. California Birth Certificate

▪ Changing an Your Name and/or Gender Marker

This information is designed to assist current California residents. If you were born in California but now live in another state or county, you should contact the Transgender Law Center for assistance with changing your California birth certificate.

California law explicitly allows someone born in the state to receive a new birth certificate recognizing their gender identity. The process for changing an individual's name and gender on their birth certificate is a relatively simple process. The Office of Vital Records has created a form and publication to assist interested individuals. The only difficulty is that if you are only changing your name on your birth certificate, you will use a different form (VS-23) than if you are changing your gender marker or your name and gender marker at the same time (VS-24).

We've included in the Appendix a complete copy of the publication, *Obtaining a New Birth Certificate after Gender Reassignment*, because it is a great overview of the process (included as **Attachment I**¹⁷). Instead of going through the entire document, we'll just point out a couple of important issues.

In order to request a new birth certificate, you need to obtain a court order name and/or gender change. You must submit a certified copy of your order(s) to the Office of Vital Records.

Also, you must get an original VS-23 (Application for Amendment of Birth Record to Reflect Court Order Change of Name) or VS-24 (Affidavit to Amend a Record) form. You cannot use a photocopy and cannot download the form online (because it is printed on special paper). You can get one directly from Vital Records. It sometimes takes several weeks to get one from the Vital Records office. The Transgender Law Center has a limited number of copies of the VS-24 and may be able to mail one to you if you are in a hurry. Please contact us if this is the case to see if we have any available.

If you have a copy of your old birth certificate, we recommend that you submit a photocopy of it with the application. If you don't have one, you may want to consider getting one.¹⁸ While it is not necessary to complete the process, having a copy of your old birth certificate will ensure that you put the correct information on the form. If incorrect information is on the form, it will be rejected and will be returned to you. We've also been told that if you mail a copy of your old birth certificate with your application, it can speed up the process for issuance of your new one.

After the California Office of Vital Records has received your application, you will either receive a postcard accepting your request or, if rejected, your application will be returned to you along with a letter explaining what corrections are needed. You should expect to wait about 6-10 weeks after your application is mailed for a reply.

¹⁷ Also available at:

[http://www.cdph.ca.gov/certlic/birthdeathmar/Documents/Gender%20Reassignment%20PAMPHLET%20\(10-08\)%20MERGED%20220.pdf](http://www.cdph.ca.gov/certlic/birthdeathmar/Documents/Gender%20Reassignment%20PAMPHLET%20(10-08)%20MERGED%20220.pdf)

¹⁸ You may obtain a copy of your old birth certificate by filling out the VS-111 (Application for Certified Copy of Birth Record) form and mailing it to the Office of Vital Records with a \$16 fee. A fillable PDF version of the VS-111 can be found at the following web address: <http://www.cdph.ca.gov/certlic/birthdeathmar/Documents/2010-Application-%28November%29-Birth.pdf> . A "Certified Informational Copy" of your birth certificate should be sufficient for the name change process.

If your application is accepted, a new or amended birth certificate will be issued in approximately seven months. If you have applied for a name change only, you will receive an “amended” two-page birth certificate that includes your new name on page one and a copy of your old birth certificate, unchanged, as page two.

If your application is for name and gender change, you will receive a new birth certificate without any notation that it is not your original birth certificate. Your old birth certificate is not destroyed, but is sealed and is only accessible to other individuals if they have a court order.

▪ **Special Issues for People Born in California Who Are Living Outside the State**

You can still change your California birth certificate if you live out of state. However, you will still need to obtain a court order to do so. Not all states will issue a court order recognizing an individual's change of gender as is required by the Office of Vital Records.¹⁹ However, if your state will, you can submit a certified copy of that order along with your VS-24 paperwork.

If you were born in California and currently live in a state or country that will not issue such an order, you can still petition a California court to change your gender on your birth certificate. You may petition the court in any California county, regardless of where you were born. Form NC-300 “Petition for Change of Gender and Issuance of New Birth Certificate” allows out of state residents to check box 1b to indicate that they are an “out of state resident who was born in California.” Because all courts may not be familiar with this process, the Transgender Law Center has created a court documentation that you can submit to a California court along with your petition for change of gender. Contact us if you are in this situation and we can provide you with this document or discuss other options you may have.

▪ **Birth Certificate Check Lists**

Name Change Only

- ☐ Complete an original VS-23
- ☐ Attach a Certified copy of your court order
- ☐ Mail documents along with payment
- ☐ Copy of original California birth certificate (if you have it)

Gender Marker Change Only or Name and Gender Marker Change

- ☐ Complete an original VS-24
- ☐ Attach a Certified copy of your court order
- ☐ Mail documents along with payment
- ☐ Copy of original California birth certificate (if you have it)

¹⁹ Feel free to contact the Transgender Law Center to try to get some leads on finding the policies of particular states.

▪ **Consular Report of Birth Abroad**

If you are a U.S. citizen born abroad, then your birth certificate is a Consular Report of Birth Abroad (CRBA). The standard for changing your gender marker on your CRBA is the same as changing your gender marker on your passport, which is discussed below on **p. 39** of this guide. To learn more about changing the gender marker on a CRBA, visit the State Department's website at http://travel.state.gov/law/family_issues/birth/birth_593.html.

VII. United States Citizenship and Immigration Services Documents

Few agencies have undergone as much turmoil with regard to identity documents policies in recent years as the United State Citizenship and Immigration Services (USCIS). After decades of informally working well with transgender immigrants, the agency began to implement strict and confusing policies about how people were supposed to change their immigration documents to match their gender identity.

USCIS issues over a dozen different forms of identification. This section of the guide focuses specifically on those documents related to *permanently* immigrating to the U.S. Similar policies apply for temporary visas (student, tourist, work), but those forms of identification are not covered here.

▪ **Changing Your Name**

In general, you need a court order to get a name other than your name at birth included in your immigration service documents. In the past, you could change your name as a part of the naturalization process, but this option has recently become very limited.

If possible, it is best for you to start the immigration process with your correct name. For instance, if you are applying for asylum, it is much easier if you submit a court order recognizing your name with your asylum application. That way, your initial record can begin with your current name. If you are unable to do so or if you have already started your immigration process, each form of identification that you have can be updated so long as you have a court order. However, updating a document can be both expensive and time consuming.

▪ **Non-Citizens and California Courts**

Some people believe that you need to be a U.S. citizen or permanent U.S. resident to get a California court order recognizing a change of name. In fact, the courts are not allowed to deny access to any state resident regardless of your legal status. Despite this, some courts do end up excluding undocumented people by asking for photo identification for people submitting name change paperwork. We do not believe that this practice is lawful and if you experience it, you should contact us for more information or assistance.

As localities increasingly focus on enforcing immigration law, there may be some risk involved in using the court system in some states. Non-citizens should speak with experienced local immigration attorneys before going to court.

If you are not yet in the United States, you should obtain legal recognition of your name (and gender) change in your home country. This way, you can submit all filings in your new, current name and list your birth name as a prior name. In many cases, however, it will not be possible to obtain a court-ordered name change before you legalize your status.

▪ **Changing Your Gender Marker**

Currently, the USCIS requires a person to have had sex reassignment surgery in order change the gender marker on their official immigration documents. However, their policy on when a document can be issued with the correct gender marker (for instance, an immigrant who is male-to-female getting an “F” on her paperwork) is vague. It is also unclear how much or what types of surgery are considered sufficient by the USCIS to change gender. In most cases, a surgeon’s letter should be sufficient.

In addition to a surgeon’s letter, some USCIS policies seem to require that you demonstrate that your gender is recognized in your home country before you can update an existing immigration document (for example, if you are FTM and are trying to get your green card reissued as male). However, this policy is not strictly enforced. When it is enforced, it is usually overcome by showing evidence that your home country will not recognize your new gender identity regardless of what medical treatment you have undergone. This requirement does not apply if you are applying for a particular document for the first time.

Please note that your California gender change court order is not always sufficient to change your gender marker on your immigration-related documents, but it can be persuasive. This is because the court order is a state document, and USCIS is a federal agency. Similarly, your California court order cannot compel a foreign government to amend your birth certificate if you were born abroad.

▪ **Changing Name and/or Gender on USCIS Identity Documents**

If you have legally changed your name and/or gender you should be able to obtain documents from USCIS that match your legal name and gender. You can apply for the change(s) either at the time a USCIS document is first being issued or by applying to have the identity documents reissued to correct the name and/or gender change. You should be prepared to submit supporting documentation.

▪ **“Green Card”**

If you are a foreign national, you can use Form I-90 to update information on your “green card.” You can also use this same form to change your biographical information on your green card records. If biographic data has been legally changed, you must include either the original or certified copy of the court order making the legal change, or the marriage certificate reflecting the new name. If

you need to replace your green card because of a change in any other biographic data, you must provide copies of the documentation to establish that the new data is correct.

When corresponding with USCIS, you should be explicit and address your transgender identity directly. You should assume that the officer who receives your application will not be familiar with transgender issues and so you should spell out the issues in the application as clearly as possible.

A court-ordered name and/or gender change can be persuasive in helping you change your name and gender marker on your Permanent Resident Card ("Green Card"). In order to change your biographic information, you should use the I-90 and supply either the original or a certified copy of the court order making the legal changes. Although the instructions for Form I-90 do not specifically mention gender, it does state that the form may be used to change any biographic data provided there is "appropriate medical documentation" (i.e., court order and surgeon's letter stating that the individual has undergone complete sex reassignment surgery).

▪ **Naturalization Certificate**

You can use another form, N-565, to change the biographic information on your naturalization certificate. The instructions for this form are not as broad as the I-90's.

▪ **Name Change on Naturalization Application**

Unfortunately, Congress did not give USCIS the legal authority to change your name at the time that you naturalize. Therefore, there are only two ways that USCIS can issue your Certificate of Naturalization under your new name: (1) through a legal name change, including marriage or a divorce decree, or (2) by taking the Oath of Allegiance at a Naturalization Ceremony. If the local practice is to hold naturalization oath ceremonies in court, it may be possible for you to lawfully change your name as part of the naturalization process.

If the court grants your request to change your name at the time of your oath, your new name will appear on your Certificate of Naturalization. Please note that you may have to discuss your transgender identity in the courtroom before others who may be present. To learn more about this process, visit the USCIS document available here: www.uscis.gov/files/article/M-476.pdf.

VIII. United States Passport

The following section addresses how to change your name and gender on your U.S. passport as well as provide guidance concerning passport photos. Many people have questions about their passport photos. The U.S. Passport Agency will always allow you to use a photo that represents the way you look, regardless of whether the photo stereotypically corresponds to the gender marker on your passport. And if you have a court order, you can get a passport with the correct

name on it without a problem (you'll need to submit a certified copy of the court order, though).

▪ **Changing Your Name on Your U.S. Passport**

If you have a valid U.S. passport that was issued **within the past year**, and you have changed your name by court order, you must complete and submit a *U.S. Passport Re-Application Form* DS-5504, along with the court order and two new passport photos. There is no fee for you to change your name this way if you follow these procedures and have a valid U.S. passport that was issued within the past year. This application may be submitted by mail and takes four to six weeks to process. Expedited service, which takes two to three weeks, costs \$60.

If you have a valid U.S. passport that was issued **more than one year ago but no longer than 15 years ago**, and you have changed your name by court order, you must complete and submit a *Renewal Application for a U.S. Passport by Mail Form* DS-82, along with your court order, a fee²⁰ and two new passport photos.

▪ **Changing Your Gender on Your U.S. Passport**

Recently, the U.S. State Department issued new rules concerning changing the gender marker on a U.S. passport. The rules, which went into effect January 28, 2011, state that surgery is no longer required to change the gender marker on a U.S. passport. Instead, individuals need to provide a letter from the attending medical physician on office letterhead. The following is a model letter provided by the State Department:

[Attending Physician's Official Letterhead]

I, *(physician's full name)*, *(physician's medical license or certificate number)*, *(issuing State/Foreign Country of medical license/certificate)*, *(DEA Registration number or comparable foreign designation)*, am the attending physician of *(name of patient)*, with whom I have a doctor/patient relationship and whom I have treated (or with whom I have a doctor/patient relationship and whose medical history I have reviewed and evaluated).

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

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

Signature of Physician

Typed Name of Physician

Date

Please write "gender transition" within the white space of your passport application to request the full validity passport.

²⁰ For current fee information go to: http://travel.state.gov/passport/fees/fees_837.html.

The new U.S. passport policies instruct officials to be respectful, use the appropriate pronouns and not to ask further medical questions if the correct documentation is provided. If you encounter any of these problems, please contact us.

If you are renewing your passport and requesting a gender change, you must use form DS-11 and apply in person, even if you would otherwise be eligible to renew by mail.

To apply for a new passport, individuals must submit in person a DS-11, along with passport photos, proof of U.S. citizenship (generally a birth certificate), a valid form of photo identification, and fees. If the gender marker on any of the documents conflicts with the desired gender marker on the passport, then the above-mentioned physician's letter is also required.

Individuals can also get a renewable, two-year limited validity passport if they are just beginning their gender transition. It has the effect of a full passport, but it is only valid for two years. To receive a limited validity passport, individuals must submit the same materials as noted above. However, the second paragraph of the physician's letter must read:

(Name of patient) is in the process of gender transition to the new gender (specify new gender male or female).

During the two-year limited validity period, the passport can be converted into a full passport by submitting via mail a DS-5504 and a physician's statement indicating that an individual "has had appropriate clinical treatment for gender transition." Submit these documents to the address specified on the form. Unless you request expedited service, no new fee is required. If you have questions about the requirements for obtaining a limited validity passport, you may want to check with the U.S. Passport Agency at the following number: 1-877-487-2778.

Applying for a U.S. Passport for the First Time

If you are applying for a U.S. Passport for the first time, and you have changed your birth certificate, in most cases you do not need to submit any gender change paperwork such as a surgeon's letter or court order. Instead, you should fill out the correct application form and include a copy of your changed birth certificate.

If you are applying for a U.S. Passport for the first time and you have not changed your birth certificate, you must submit an affidavit from your attending physician or surgeon stating that you have had "appropriate clinical treatment." A sample letter can be found in the "Changing your Gender on your U.S. Passport" section above.

▪ United States Passport Application Forms

There are three possible forms and processes that may be used to obtain a passport or change your passport so that it has your correct name and gender on

it. You can download each form at:

http://travel.state.gov/passport/forms/forms_847.html.

1. **DS-11 Application for a U.S. Passport** (first-time passport, renewal of a passport issued more than 15 years old, or changing gender on current passport)

The DS-11 application is the basic application for a U.S. passport and it must be used if **any** of the following are true for you:

- You have never been issued a U.S. passport or
- You are under age 16 or
- You were under age 16 when your previous passport was issued or
- Your most recent U.S. passport was issued more than 15 years ago or
- Your most recent U.S. passport was lost or stolen or
- Your name has changed since your previous U.S. passport was issued and you are unable to legally document your name change – even if your previous U.S. passport is still valid and was issued within the past 15 years.

The DS-11 application must be submitted in person. You can fill out the DS-11 online, but it must then be downloaded and submitted in-person with a fee. The application is available at:

http://travel.state.gov/passport/forms/ds11/ds11_842.html

A list of places where you can submit the DS-11 is available at:

<http://iafdb.travel.state.gov/>.

A list of current passport fees is available at:

http://travel.state.gov/passport/fees/fees_837.html.

Please Note: If you are a first-time passport applicant who has transitioned via surgery and changed your name and/or gender on your birth certificate, you may be contacted by the Passport Agency after submitting your application and be asked to provide additional documentation. If this happens, please contact the Transgender Law Center to discuss the Passport Agency's request.

2. **DS-5504 U.S. Passport Re-Application Form** (changes/corrections)

This form should **only** be used for making a data change for a **previously issued, currently valid U.S. passport within one year from the date of issue**. You may submit this application by mail and there is no accompanying fee.

You must use the DS-5504 form if **any** of the following are true **and** the passport is valid and has been issued within the past year:

- You need to change your name on your valid U.S. passport
- You need to extend the validity of a limited passport or upgrade it to a full-validity passport
- You need to correct a printing error in your valid U.S. passport

The DS-5504 is available at:

http://travel.state.gov/passport/forms/ds5504/ds5504_2663.html

Please note that all copies of court orders submitted must be certified.

3. **DS-82 Renewal Application for a U.S. Passport by Mail** (renewal of an expired passport or changes/corrections to passport issued more than 1 year ago)

You should use this form if your passport meets **all four of the following conditions and has expired or was issued more than one year ago:**

- Your passport is undamaged and can be submitted with your application
- Your passport was issued when you were age 16 or older
- Your passport was issued within the last 15 years
- Your passport was issued in your current name or you can legally document your name change (with a court order or marriage certificate changing name)

You will have to submit a fee along with your application, but you can apply by mail. Keep in mind that if you are asking for a name change, you will need to submit a certified copy of your court order.

The DS-82 is available at:

http://travel.state.gov/passport/forms/ds82/ds82_843.html

IX. Selective Service

American citizens and resident aliens aged 18 to 25 who are assigned male at birth are required to register with the Selective Service System. This information is compiled by the government as a means of preparing for a military draft. Currently, all individuals assigned male at birth are required to register within 30 days of their 18th birthday. Failure to do so is punishable by a fine and imprisonment. Many federally-funded programs, such as financial aid for higher education and federal employment, require proof of registration as a condition of application. As a result, both FTM and MTF individuals are impacted by the registration process.

▪ Female to Male (FTM) Individuals

If you were assigned female at birth, you are not required to register with the Selective Service regardless of your current gender or transition status. However, if you have legally changed your gender to male, you may be required to show that you are exempt from registration in order to apply for federal student loans or other government aid and employment programs. To establish that you are exempt, you must obtain a Request for Status Information Letter (SIL). The Request for SIL can be obtained by contacting the Selective Service at (888) 655-1825 or by downloading the Request at:

http://www.sss.gov/PDFs/SilForm_Instructions.pdf

You should fill out the "Transsexual" section, attach a copy of your original birth certificate, and sign and submit the document. If your birth certificate has been changed and you do not have the original copy, you should include documentation establishing that your gender and birth certificate have been

changed. There is no cost to obtain the SIL and it usually takes between four and six weeks to receive. The SIL that is received will not state why you are exempt and thus will not “out” you as FTM. Please note that although the Selective Service policies refer to “transsexual” individuals, the policies apply to all transgender individuals regardless of surgical status.

If you are an FTM who transitioned prior to your 18th birthday and have changed your birth certificate, it is possible to register with the Selective Service. However, it is unclear if you will be eligible for military service.

▪ **Male to Female (MTF) Individuals**

If you were assigned male at birth, you are required to register with the Selective Service regardless of whether you have transitioned before or after your 18th birthday and regardless of whether you will ultimately be deemed eligible for military service. The Selective Service contacts individuals assigned male at birth prior to their 18th birthday to register.

▪ **Name Change and the Selective Service**

If you were assigned male at birth and are required to register, you are also required to inform the Selective Service of any legal name change or change in other record information, such as change of address, up until your 26th birthday. Notification must take place within ten days of the legal name change. Please note that this notification process does not apply to changes of gender for individuals who are assigned male at birth, as the Selective Service policy requires that all individuals assigned male at birth between the ages of 18 and 26 must register regardless of transition status.

If you wish to update your Selective Service records with a name change, you may do so using one of three methods. First, you may fill out the Change of Information Form that is sent to you with your Registration Acknowledgement Card. Second, you can fill out a Change of Information Form called an “SSS Form 2,” which is available at any U.S. Post Office, Embassy, or Consulate abroad. Or third, you may also change your name by sending a letter to the Selective Service. In the letter, you should include your full name, Social Security number, Selective Service number, date of birth, current mailing address and new name. Regardless of which means you choose, you must attach official documentation of your name change. Updating records generally takes four to six weeks, after which you will be mailed a new acknowledgement card.

▪ **Other Information**

For more information about a transgender individual’s eligibility to serve in the military, see the Servicemembers Legal Defense Network (SLDN) at: <http://www.sldn.org/>.

To view SLDN’s information about transgender and military issues, see: <http://www.sldn.org/pages/transgender-issues>.

For information about Selective Service Registration requirements for conscientious objectors, see: <http://www.sss.gov/fsconsobj.htm>.

X. School Records

Different school districts, colleges, and universities have different policies regarding changing name and/or gender on official school records. If you are currently enrolled in a K-12 school, vocational program, or college or university, you should request that your school records be updated as soon as a court-ordered name change is completed and/or a DMV ID is issued in your new name. All California public educational institutions must recognize a court-ordered name change and some will recognize the name change simply based on the DMV identification.

You may or may not be able to update diplomas or other school records from your past. Some schools have a policy of not updating anyone's diploma because it is classified by the school as a historical document reflecting the student's name at the time they graduated. Your ability to force the school to re-issue a diploma with the correct name is unclear, especially if the school is not located in California.

However, other schools do re-issue diplomas with new names in some circumstances (for instance, if graduates can get re-issued diplomas that recognize your change of last name through marriage). If your school does this for other non-transgender individuals, it must re-issue your diploma as well. It is easiest to make this argument if you have a court order changing your name.

XI. Financial Institution Records

▪ Bank Records

Different banks have different policies for changing your name in your records. Some banks may require a court order while others may only want you to present identity documents with your old and new name on it. And while you should be able to argue to your bank that a common law name change is sufficient to change your records, many banks are requiring a court order. You should consult your bank to find out what it would require to change your name in its records.

As a practical matter, you may want to consider whether there is any reason to keep your old name as an additional name on your account. For example, if you receive checks in your old name (from relatives who don't recognize your changed name, from some kind of annual fund, or some kind of copyright or contract residuals) it is helpful if your prior name is kept on your account as an "aka" (also known as). Some people even go so far as to list both their old and new names on their checks for a period of time.

▪ Credit Cards

As with banks, each credit card provider has a different policy regarding what is required to change an individual's name on its records. You should consult your credit card provider to find out what it would require to change your name on both its records and on your credit card.

▪ Credit Reports

Credit bureaus are likely to keep your old name on your records for a period of time (possibly as long as 10 years). However, it is still a good idea to try and get your records updated as soon as possible. To get the primary name on your account updated, you will need to submit a copy of your name change court order to each of the three major credit reporting agencies:

Equifax, 1-800-685-1111, www.equifax.com

Experian, 1-888-397-3742, www.experian.com

Trans Union, 1-800-916-8800, www.transunion.com

However, often these records will update your name on their own as it is tied to your Social Security number. The legality of a credit reporting agency distributing an individual's old name is an open legal question. As credit reporting agencies regularly report non-transgender people's past names, it is likewise not unlawful to report on transgender peoples. However, this practice may understandably cause concern. For more information about your rights, consult:

- Federal Trade Commission:
<http://www.ftc.gov/bcp/edu/pubs/consumer/credit/cre34.shtm>.
- National Consumer Law Center: www.consumerlaw.org/

After submitting your name change request, if you want to check your credit report, federal law provides that you are entitled to one FREE credit report every twelve months. Go to www.annualcreditreport.com to request it.

XII. Conclusion

We hope you have found this guide to be useful. Please remember that this guide should not be considered to be legal advice. If you have any questions about your particular situation, and you live in California, you should feel free to contact the Transgender Law Center at (415) 865-0176 or info@transgenderlawcenter.org and we can try to help you navigate the often confusing process of changing identity documents. If you live outside of California, you should feel free to contact us and we'll do our best to point you to resources that may be helpful and we will do our best to connect you to resources in your area. The Transgender Law Center is committed to improving the laws and policies that affect our ability to obtain accurate identification. If you have any problems in the process of changing your identity documents, you should please let us know. Thank you.



Transgender Law Center

Making Authentic Lives Possible

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The Transgender Law Center (TLC) is a civil rights organization advocating for transgender communities. Every day we connect transgender people and your families to technically sound and culturally competent legal services, increase acceptance and enforcement of laws and policies that support California's transgender communities, and work to change laws and systems that fail to incorporate the needs and experiences of transgender people.

