

Montana State Name Change Process for Transgender Individuals

Materials presented by



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MONTANA STATE NAME CHANGE PROCESS FOR TRANSGENDER INDIVIDUALS

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I. Introduction

The information included in this packet follow the standards of Montana State Law as outlined in the Montana Code Annotated. The information included in this packet has been modified to provide a successful and safe change in name and gender, and utilizes a sealed record basis to ensure the utmost privacy and to ensure the safety of transgender individuals in the state of Montana. This article will outline the name change process, as well as driver's license services, social security services, and will discuss current passport, social security and birth certificate issues.

II. Montana State Legal Name / Gender Change

To facilitate a safe and successful change in name and gender, please use the specific forms provided in this packet, as their wording is transgender specific and ensures safety and privacy. The forms included are based on the assumption that the petitioner is pre-operative, and suggest that the petitioner has intentions of proceeding with surgical procedure, however, in no way, legally obligate the petitioner to have any surgical procedure performed. These forms may be modified to more specific to a particular individual's needs or situation as see fit. If changes occur outside of basic wording changes, it is highly recommended that the forms be looked over by an individual of legal capacity practicing within the State of Montana to ensure an efficient name change process.

The forms used in the name change process are as outlined.

- 1) *"Order for Name Change With Sealed Record"*
The purpose of this form is to state the reasoning for a sealed record and to ensure that privacy and safety are taken into consideration with utmost respect.
- 2) *"Petitioners Affidavit in Support of Motion for Name Change"*
The purpose of this form is outline the reasoning for the name change, and to ask the court to support and honor the request for name change
- 3) *"Petition for Name Change"*
The purpose of this form is to outline the required information and reasoning of the name change, and to petition for actual name change.
- 4) *"Re the Matter of Name Change"*
The purpose of this form is to outline and brief the court on the basis of the name change in question and of the sealed record basis and waiver of publication.
- 5.) *"Order Setting Hearing"*
The purpose of this form is to order the placement and setting for a court hearing for name change.

Once paperwork is completed, the petitioner may approach the county courthouse of the county in which they reside to file the name change process. Initial filing of the name change process is generally no longer than a fifteen to thirty minute process, and generally does not exceed \$125.00 as of 2009.

All hearings for name changes on a sealed record basis are done in a closed courtroom, to ensure the complete privacy and safety to the petitioner, as outlined in the court order documents. Once this process is complete, the petitioner will file the completed documents with the county courthouse records department. At this time, the petitioner can request notarized copies of the legal name change. It is suggested that multiple notarized documents be

made, one for each instance of documentation change where a notarized copy would be required, i.e. drivers license services, vital statistics department, social security department, etc.

III. Montana Drivers License Services

The State of Montana Department of Motor Vehicles drivers license services has transgender specific policies in place which will change the name, sex marker, and associated information on any Montana State Drivers license prior to surgical procedure to ensure utmost safety for transgender individuals. Though not required, a letter of support from either a therapist, medical doctor, or both is highly recommended to ensure efficiency of this process.

IV. Montana Vital Statistics

Montana Vital Statistics will not replace the sex marker on a birth certificate until sex altering surgical procedure has taken place, however the State does not specifically cite the nature of such surgical procedure, thus, facial feminization surgery, orchiectomy, ftm top surgery, breast augmentation, etc. may be used to facilitate this change, provided that a letter from a surgeon is provided stating that surgical procedure has taken place to alter an individuals sex, however, the letter shall not, nor is required to disclose the nature of any such surgery.

V. Social Security

The social security department will not replace the sex marker on social security records until record of sexual reassignment surgery is provided or a birth certificate with the new sex marker is provided. The department will change the name on this record prior to surgical procedure, and will provide a replacement social security card in 5 - 7 business days.

Your Old Name and Address

Court Information Here – I.E. “Montana Fourth Judicial District Court, Missoula County”

In re the matter of
A name change for
Your Old Name Here
Petitioner

Dept. No.
Cause No.
Order for name change with sealed record

The petition for name change with sealed record, filed herein on the ___ day of _____, 201__, came for hearing this ___ day of _____, 201__ on the motion of the petitioner. Petitioner appeared in person and gave testimony.

This court granted petitioner’s name **Old Name Here** be herby changed to **New Name Here**, and that the petitioner shall be entitled to request a substitute birth certificate be issued to reflect the new name, without reference to the former name. Further, upon Petitioner’s request a new birth certificate should be generated reflecting the change in name and gender. All records of this change of name are to be kept confidential, and shall not be released to any person other than the petitioner. Petitioner shall be entitled to apply for a new social security number and new driver’s license under this new name.

The court hereby ORDERS that this record shall be sealed, and that no person other than the petitioner, shall be permitted access. The court further ORDERS that any request for access by a person or agency other than the petitioner be heard by the court only after notice to the petitioner.

Dated this ___ day of _____, 201__.

District Court Judge

Old/Current Name
Current Address
Here

Court Information Here – I.E. “Montana Fourth Judicial District Court, Missoula County”

In re the matter of
A name change for
Old/Current Name
Petitioner

Dept. No.
Cause No.
Petitioner’s affidavit in support of motion for
name change with sealed record

I, **Old/Current Name** , being of lawful age, and being duly sworn upon, depose and say:

1. I am the petitioner in this matter.
2. I request that the court waive the publication requirement because of concerns for my safety.
3. The only reason for this name change is because I am undergoing gender reassignment:
 - a. I am transitioning from **Male/Female** to **Male/Female**.
 - b. I am not requesting this name change for the purpose of concealment of my identity or for any fraudulent or illegal purpose.
4. I am not attempting to hide a criminal record or to avoid criminal prosecution.
5. I am not attempting to avoid any creditors with this name change action.
6. Once granted a name change I will promptly notify all appropriate state and federal government agencies, including the State Department of Motor Vehicles and the Social Security Administration.
7. Because I am undergoing gender reassignment, I am asking the court to order a new birth certificate reflecting the change in my gender from male to female.
8. I have resided in Montana for my entire life and it is my permanent home.

Dated this ___ day of _____, 201__

Old / Current Name

State of Montana)
) ss
County of County)

Old/Current Name , being first duly sworn on oath, says that he is the petitioner in the above-entitled proceeding; that he has read the forgoing affidavit and knows the contents thereof; and that the matter, facts and thing stated therein are true to the best of his knowledge and belief.

Old/Current Name

Signed and sworn to before me on this ___ day of _____, 201___, by Old/Current Name

Notary Public for the State of Montana
Residing at _____
My commission expires _____

Old / Current Name
Current Address
Here

Court Information Here – I.E. “Montana Fourth Judicial District Court, Missoula County”

In re the matter of
A name change for
Your name here again
Petitioner

Dept. No.
Cause No.
Petition for name change with sealed record
and waiver of publication

COMES NOW THE PETITIONER, [old name here](#), and asks the court to grant his petition for name change with sealed record and waive the requirement for publication. The request is based on the following:

1. The petitioner is a natural born citizen, born at [City and State of Birth Here](#)
2. The petitioner currently resides at [current address here](#)
3. The petitioner’s current full name is [old / current name here](#)
4. The petitioner proposes to change his name to [new name here](#)
5. The petitioner request the court to order the name change because [she/he](#) is in the process of gender reassignment procedures, and a name change will allow the gender reassignment process to proceed.
6. The petitioner does not bring this name change action to avoid or defraud creditors, to hide a criminal record, to avoid criminal prosecution, or for any other reason than he is transitioning from male to female and wishes to change his name.
7. The petitioner requests the name change action to proceed on a sealed-record basis due to the risks to his safety. The request to seal the record is permitted under 27-31-201(3) M.C.A.
8. The safety of the petitioner is at risk if publication is required.
9. A brief in support of the petitioner for sealed record and waiver of publication is filled with this petition.
10. The petitioner request the court order a new birth certificate should be generated reflecting the change in name and gender. The name change and new birth certificate will allow the petitioner to continue wit the process of gender reassignment.
11. If the petitioner’s request to seal the record is denied and if the waiver of publication is denied, members of the community at large will learn of the petitioner’s gender reassignment and name change. The petitioner fears this will result in harassment or physical harm.
12. The petition for name change with sealed record and waiver of publication is supported by petitioner’s affidavit, filed simultaneously.

WHEREFORE, Petitioner respectfully prays that the court grant the following relief:

1. Enter a decree changing petitioner's name.
2. Order that the record be sealed and that no person other than the petitioner be permitted access.
3. Order that any request for access by a person or agency other than the petitioner be heard by the court after notice to the petitioner.
4. Order that a new birth certificate should be generated reflecting the change in name and gender.
5. All other relief which the court deems proper.

DATED this [current date here](#)

[old / current name here](#)

Your Old/Current name
Current Address
Here

Court Information Here – I.E. “Montana Fourth Judicial District Court, Missoula County”

In re the matter of
A name change for
Old/Current name here
Petitioner

Dept. No.
Cause No.
Brief in support of petition for sealed record
and waiver of publication and proposed order

Comes now the Petitioner, Old/Current name here, and moves the court to order that the name-change action proceed on a sealed-record basis due to safety risks to the petitioner. Petitioner moves the court order that the requirement for publication be waived, due to the safety of the petitioner being at risk from publication.

BRIEF

Petitioners request to seal the record is specifically permitted under the name change statute 27-31-201(3) M.C.A., which provides in pertinent part: “The court may allow a petition to proceed on a sealed-record basis when probable cause is shown that the safety of the petitioner is at risk and the judge is satisfied that the petitioner is not attempting to avoid debt or to hide a criminal record.”

In the case, the petitioner is undergoing gender reassignment procedures. Due to the cultural stigma associated with such procedures, the petitioner is fearful for his safety if the general public is aware of his undergoing gender reassignment procedures. Petitioner’s situation is exactly what this provision of the statute was meant to address. It is appropriate and fitting to seal the record to protect the petitioner’s safety.

However, sealing the record is not a complete protection to discovery by the public. A name change must generally be published in a newspaper in the county for four successive weeks, 27-31-201(1) M.C.A., in this situation publishing in a newspaper would pose an extreme risk, due to the cultural stigma associated with gender reassignment. Therefore, in order to give the petitioner better protection through the name change process, and to more fully carry out the clear legislative intent in 27-31-201(3) M.C.A., the requirement to publish the name should be waived.

Finally any request for access by a person or agency to the sealed record should be heard by the court after notice to the petitioner. This will give the petitioner advance notice if anyone is attempting to track him down.

Date this ___ day of _____, 201__

Old/Current name here

Order

The court having reviewed petitioner's motion and affidavit hereby orders that,

1. _____ The petitioner's motion is hereby GRANTED, and this name change action shall proceed on a sealed-name basis with all documents sealed.
2. _____ The petitioner's motion is hereby GRANTED, in that any request for access to this file by a person or agency other than the petitioner shall be heard by the court only after notice to the petitioner.
3. _____ The petitioner motion to waive the requirements of publication of the name change is hereby GRANTED, and there shall be no requirement to publish this name change.

Dated this _____ day of _____, 201__

District Court Judge

Court Information Here – I.E. “Montana Fourth Judicial District Court, Missoula County”

In re the matter of
A name change for

Dept. No.
Cause No.

Old name here

Petitioner

Order Setting Hearing

This court orders:
Name Change Hearing

The hearing on the petition for name change with sealed record and waiver of publication filed in this case is set for:

- Date _____
- Time _____
- Place _____ County Courthouse

The petitioner, [Old Name here](#), requests that waiver of publication be granted for said requested hearing on the grounds that if the waiver of publication is denied, members of the community at large will learn of the petitioner’s gender reassignment and name change. The petitioner fears this will result in harassment or physical harm.

Date: _____

District Court Judge

Current Date

Montana Driver's Services

Re: Name and Gender Designation for Patient / Client Name

Patient / Client Name has been a client of mine since Date for treatment of Gender Identity Disorder (DSM-IV 302.85). Patient / Client Name is under both medical and counseling treatment to achieve a change of both sex and gender as per the International Standards of Care as defined by the World Professional Association for Transgender Health. He/She is currently receiving hormone replacement therapy and will eventually acquire sex reassignment surgery.

As defined by the medically accepted Standards of Care, Name must begin a period of living in her new gender role in all aspects of her life for a period of at least one year prior to his/her surgery. This is to determine the psychological and physiological suitability of her making a permanent and irreversible change of sex.

To facilitate this he/she had completed a legal change of name in Insert County Here County District Court which designated that his/her birth certificate and all other legal documents be changed to reflect his/her new legal name and legal gender status as male/female.

His/Her acquisition of a new Driver's License reflecting these changes will greatly facilitate this process for Patient / Client Name and helps protect him/her from undue harassment and possible harm.

Prompt attention to this matter is essential.

Sincerely,

Physician / Counselor Name
Contact Information

JUDICIAL COURTS OF MONTANA

1st Judicial District Courts
Lewis & Clark / Broadwater County

2nd Judicial District Courts
Butte / Silverbow County

3rd Judicial District Courts
Deer Lodge / Granite / Powell County

4th Judicial District Courts
Missoula / Mineral County

5th Judicial District Courts
Madison / Beaverhead / Jefferson County

6th Judicial District Courts
Park / Sweetgrass County

7th Judicial District Courts
Dawson / McCone / Richland / Prairie
Wibaux County

8th Judicial District Courts
Cascade County

9th Judicial District Courts
Glacier / Pondera / Teton / Toole County

10th Judicial District Courts
Fergus / Judith Basin / Petroleum County

11th Judicial District Courts
Flathead County

12th Judicial District Courts
Liberty / Hill / Chouteau County

13th Judicial District Courts
Yellowstone County

14th Judicial District Courts
Golden Valley / Meagher / Musselshell
Wheatland County

15th Judicial District Courts
Daniels / Sheridan / Roosevelt County

16th Judicial District Courts
Carter / Custer / Fallon / Garfield
Power River / Rosebud / Treasure County

17th Judicial District Court
Blaine / Phillips / Valley County

18th Judicial District Court
Gallatin County

19th Judicial District Court
Lincoln County

20th Judicial District Court
Sanders County

21st Judicial District Court
Ravalli County

22nd Judicial District Court
Big Horn / Carbon / Stillwater County

FOR MORE INFORMATION ABOUT SPECIFICS REGARDING COURTHOUSE LOCATION,
PLEASE CONTACT US AT RESOURCES@MONTANATDOR.ORG

LEGAL DISCLAIMER

The information contained within this guide is legal talk, and shall not be used as legal advice. MontanaTDOR cannot provide legal services or advice to individuals, and furthermore, cannot provide information directly on how to go about changing one's name. The process of changing one's name and documentation can vary from state to state. We can provide suggestions, but are unable to provide legitimate legal advice, and as such, with any legal work, we highly suggest that you seek the help of an attorney or other legal service to help with the process of changing one's name and legal documentation.

RESOURCES

MontanaTDOR is in the process of collecting and compiling a list of trans-friendly legal services throughout the State of Montana, and these resources shall be available in January of 2011. If you have suggestions for potential resources, please contact us at info@montanatdor.org



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