

# Navigating Changes in Gender Identification on Government Documents

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Editor, *Council News*



As our world changes so must our knowledge base if we are to assist our mediation clients to the best of our abilities. It was during a mediation session that I realized I did not have the knowledge to help my clients successfully navigate a family issue that will become more common among our clients and their children in the future.

During our first mediation I noticed that while the parents argued over finances, to the point of not wanting to speak to one another, they never argued about the children; they were both devoted to their two children and worked hand in hand to insure the best outcome for them. They would move closer to one another physically and speak almost as one when discussing their children.

It was during our second session that the parents related that one of their children, at the age of eleven<sup>1</sup>, was transitioning from one gender to the other. We discussed how the family was dealing with this change and how uniquely supportive the school, their friends, and their children's friends have been in accepting this life change for their child and their family. The discussion moved on to how the family could help their child navigate a world that is unfortunately not as accepting and can often be cruel and abusive towards anyone perceived as "different"; navigating adolescence is hard enough. This was an issue near to my heart as my closest law school friend had transitioned after law school in the 1980s and faced an uphill and often humiliating battle at every turn.

Our lives are regulated by our government issued identification: birth certificates, social security information, passports, drivers' licenses. We are required to have accurate and consistent government identification to apply for jobs, open bank accounts, enroll in school, sign up for

recreational sports, obtain health insurance, travel, purchase liquor, etc. Most of us never give a second thought to this requirement. But for a transgender child or adult having **gender incongruent identification** can lead to harassment, physical violence, denial of employment, inability to travel overseas and the capacity to simply go about daily life without fear. Our identification by name and gender are given at birth and follow us until death unless proactive steps are taken.

So, what steps can be taken to enable transgender children and adults to move forward with the true gender and identity to which they have transitioned?

In the recent past, the requirement to change one's gender marker on government identity documents; a birth certificate, passport, drivers' license etc., was that a person have undergone genital reassignment; something many transgender people choose not to undergo for myriad reasons. As a result of the tireless work of advocates for transgender and gender non-conforming people, the laws have changed in a significant way; there is no longer the requirement that a person have undergone gender reassignment to obtain a name and gender marker change on identity documents. Instead, the requirement is a written statement from an individual's treating physician that the person is receiving appropriate clinical treatment for transition. It is important to note that no further information is required as to what specific treatment has been or is being provided.<sup>2</sup>

## *Petition for Name Change*

The first step is to obtain a Name Change Order by filing a Petition for Name Change with the Supreme Court. If the Petitioner resides in New York City the Petition is filed in Civil Court. In New York State the Parents of a minor Child can file the “Petition for Child’s Name Change” on behalf of the Child. Along with the Petition, the person seeking a name change will need their original birth certificate or a certified copy of their birth certificate and a written statement from their physician. [A sample Petition for Name Change, and Physician Statement can be found on this link.](#)<sup>3</sup>

A name change request is a public record, which means it can be viewed by anyone. Additionally, a Name Change Order is required to be published in a designated newspaper. Therefore, when filing a Petition for Name Change it is important to include in the Petition a request that the required **publication** of the name change in the community **be waived** and that the Order for the name change be **sealed** so it is not available to the public. This step is crucial to protecting the Petitioner from those who would use such information to harm that person because of the continuing prejudices based upon a person’s sexual orientation or gender identity.

Once a Name Change Order is Granted an individual should obtain a few certified copies of their Name Change Order from the County Clerk. Certified copies will be required to update that person’s legal name on other identity documents and records.

## *Application for Name Change and Change of Gender Marker on Birth Certificate*

The next step is to change one’s Birth Certificate. Commencing in 2014, adult individuals born in the State of New York were extended the right to change the gender marker on their birth certificate to reflect their gender identity. It was not until March of 2020 that this same right was extended to transgender minors.

The following links provide applications required for an adult or child to request “Gender Designation Corrections” to their birth certificate. A request to change the name on the birth certificate should be and can be made at the same time. A certified copy of the Name Change Order must be included in the application. <https://www.health.NY.gov/vital> records/birth.htm

<https://www1.nyc.gov/assets/doh/downloads/pdf/vr/bcorrect.pdf> (For New York City Residents)

Once the application is granted, the original birth certificate and all other documents relating to the gender designation and/or name change will be retained in a sealed file. Only the amended birth certificate will be released upon future requests for a certified birth certificate.<sup>4</sup>

## *Application for Name Change and Change of Gender Marker on U.S. Passport*

To change or obtain a U.S. Passport that reflects a person’s current gender identification and name, the application must include a certified copy of the Name Change Order and an original of the written statement from a person’s treating physician that the person has received appropriate clinical treatment and has transitioned or has received appropriate clinical treatment for gender transition and is transitioning. Best practice is for the physician to state that the individual has transitioned, otherwise only a two-year provisional Passport will be provided, and the individual will need to reapply every two years until a physician states the individual has transitioned. A Physicians’ statement is not required if the identification documents submitted with a person’s application, such as a birth certificate, social security card, and state drivers’ license or non-driver identification, reflect that individuals current gender identification. <https://travel.state.gov/content/travel/en/passports/apply-renew-passport/change-of-sex-marker.html>

## *Application for Change of Social Security Card/ Records*

While our social security cards include only our name and social security number, the Social Security Administration data base includes name, date of birth, gender, etc. This data is still used by many third parties to verify a person’s identity. Therefore, it is important to not only change the name on the social security card but the underlying data pertaining to gender identification.

To change the gender marker on Social Security records an individual must provide two sets of documents along with the Application for a Replacement Social Security Card:

Documentation of Identity<sup>5</sup>, e.g., U.S. Driver's License; non-driver's license identification card or US Passport; and

Documentation of New Gender, e.g., Full-validity, 10-year U.S. passport showing the new gender; State-issued amended birth certificate showing the new gender; or Medical certification of appropriate clinical treatment for gender transition in the form of an original letter from a licensed physician.

Complete the Application for a [Social Security Card](#) and mail or take the completed application and documents to your local social security office.

### **Conclusion**

Gender identification in and of itself has far reaching consequences in our society. For the transgender population, these consequences can be even more challenging when their government assigned identification is at odds with the true gender and identity to which they have transitioned or are transitioning. Our ability as mediators to help our clients navigate the government system of identification is crucial to their ability to move forward as the person they are and not as the identity assigned to them by our government.

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### **Author's Note**

*A big Thank you to Teresa Calabrese, Esq. for providing information to start me off in the right direction.*

### **Editor's Note**

*[Please see click here to download the sample documents referenced in the article. The first page of each is displayed on pages 4 and 5.](#)*

### **Citations/Footnotes**

1. *Anecdotally, the parents recalled that commencing at age four and after, whenever asked the question, what do you want to be when you grow up? the child's answer was consistently and unequivocally "I want to be a boy".*
2. *It is suggested that a person obtain several original statements on their physicians' letterhead as an original of the statement will be required for changes to other government identity documents.*
3. *General Court Forms for Name Change can be located at: [http://ww2.nycourts.gov/courts/9jd/forms\\_supreme.shtml](http://ww2.nycourts.gov/courts/9jd/forms_supreme.shtml)*
4. *Once a person has obtained a name change and gender marker change it is important to use these documents to make changes to other documents such as high school/GED diplomas, educational programs, credit cards, leases, board of elections, etc.*
5. *For a child, the Passport may be the only documentation of identity available.*

[PROFESSIONAL LETTERHEAD]

Dear Madam/Sir:

I (physician's full name), License No. \_\_\_\_ issued by New York State, am the attending physician of \_\_\_\_\_, formerly known as \_\_\_\_\_, 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.)** (Patient's) date of birth is \_\_\_\_\_.

Patient has had appropriate clinical treatment for the individual for the purpose of gender transition from [former gender] to [current gender], and in my professional opinion, patient's gender identity is [male/female].

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

Sincerely,

[Physician's Name & Credentials]  
[DEA No. \_\_\_\_]  
[Address]  
[Phone number]

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF WESTCHESTER

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In the Matter of the Application of  
PETITIONING PARENT, as Parent

Index No.

For Leave to Change the Name of

PETITION FOR CHILD'S  
NAME CHANGE

(Insert CHILD'S PRESENT NAME) to (Insert  
CHILD'S NEW NAME)

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1. I am over the age of eighteen and I make this petition in support of my request for an order changing the name of the child CHILD'S PRESENT NAME to CHILD'S NEW NAME.

2. My present address is Current Address.

3. I am the parent of the child.

4. The child's present name is (Insert CHILD'S PRESENT NAME).

5. I would like the child's new name to be (Insert CHILD'S NEW NAME) in place of the child's present name.

6. The child is \_years old. The child was born on \_\_\_\_\_. Since the child is 16 years old, the child's signed consent to this name change petition is submitted with this request. **Delete this paragraph if the child is under 16.**

7. The child was born in (STATE/COUNTRY).

8. The child's birth certificate number is \_\_\_\_\_.

9. The child lives at \_\_\_\_\_ with me.

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

11. The child has never declared bankruptcy.

12. There are no judgments or liens against the child.