

Name and Gender Marker Changes

The first step in the legal process has been completed - congratulations! You have been provided with two (2) certified copies of your Court Order, which you will need to amend your name and/or gender identify documents.

These are the legal steps you should take, in the order you should take them, to finalize your name and/or gender identify documents.

The Lambda Legal website is a great resource:

<http://www.lambdalegal.org/know-your-rights/article/trans-identity-document-faq>

1. Birth Certificate:

The requirements and process to change the name and/or sex designation on a birth certificate, and whether that is even possible, varies from state to state.

If you were born in Nevada (and have a Nevada birth certificate), you must provide a certified copy of your court Order to change the name and/or gender marker on a birth certificate. The Nevada Division of Public and Behavioral Health provides a “Sex (Gender) and Name Change Informational Packet” available at <http://dpbh.nv.gov/Programs/BirthDeath/BirthandDeathVitalRecords-Home/>.

Nevada will issue a birth certificate reflecting the name and/or proper sex.

If you were born in a state other than Nevada, you will need to check the state specific requirements necessary to change your name and/or sex designation on your birth certificate.

Resource: Nevada Division of Public and Behavioral Health,

http://dpbh.nv.gov/Programs/BirthDeath/Birth_and_Death_Vital_Records_-_Home/

2. Social Security:

If you are legally changing your name and/or gender marker because of a court-approved legal name and/or gender marker change, you must change your name and/or gender marker with the Social Security Administration (SSA) *before* you change your driver license with Department of Motor Vehicles (DMV). The DMV electronically verifies your name, birth date and social security number with the SSA. You may wish to wait for two or more business days for Social Security to update your records.

You must visit a Social Security office in person. To change information on your Social Security Number record, you must provide documents to prove your identify (i.e., current driver license or ID), support the requested change, establish the reason for the change, as well as the original legal documents which authorize the change (i.e. certified copy of Order for Change of Name and/or Gender).

Resource: Social Security Administration, <https://www.ssa.gov/>

3. **Driver License:**

After you have changed your name and/or gender marker on your Social Security Number record, you need to change your driver license.

You must visit a DMV Office to have a new driver license or ID card issued. This cannot be done online or through the mail. The DMV will punch a hole in your existing license or ID and return it to you with an interim document. Your new license or ID will be mailed to you.

Name Change: In Nevada, you will need to complete an “Application for Driving Privileges or ID Card,” Form DMV 002, in advance. You will also need have your current driver license or ID and the original document which authorizes the name change (i.e. certified copy of Order for Change of Name and/or Gender).

Gender Marker Change: In Nevada, you will need to complete Sections “1” and “2” of the Medical Certification and Authorization (Gender Change), Form DLD-136. Please note that a licensed physician will need to complete Sections “3” and “4” of this form. You will also need have your current driver license or ID.

Please note that you do not need a Court Order to change the gender marker on your driver license or ID.

If you are changing your name and gender marker, you should have both forms completed so that your new driver license or ID card has your name and gender marker change reflected.

Resource: Nevada Department of Motor Vehicles, <http://dmvnev.com/>

4. **Passport:**

Name Change: The process to change your name on your passport varies depending on your situation.

If you are requesting the name change **less than one year after your passport was issued**, then submit the following by mail:

- * Form DS-5504;
- * Your valid passport;
- * Your original or certified name change document, such as a marriage certificate or court order (no photocopies or notarized copies); and

- * One color passport photo.

(Please note: You will not have to submit any fees unless you request Expedited Service.)

If you are requesting the name change **more than one year after your passport was issued**, and you are eligible to use Form DS-82, submit the following by mail:

- * Form DS-82;
- * Your valid passport;
- * Your original or certified name change document, such as a marriage certificate or court order (no photocopies or notarized copies);
- * One color passport photo; and
- * Adult Renewal Applicant fees or Child Applicant fees, depending on your age.

You can renew by mail using Form DS-82 if your most recent passport:

- * Is submitted with your application;
- * Is undamaged (other than normal "wear and tear");
- * Was issued when you were age 16 or older;
- * Was issued within the last 15 years; and
- * Was issued in your current name (or you can document your name change with an original or certified copy of your marriage certificate or court order).

If you are not eligible to use Form DS-82, submit the following in person at an acceptance facility or a passport agency (restrictions apply):

- * Form DS-11;
- * Your evidence of U.S. citizenship and photocopy of that evidence;
- * Your original or certified name change document, such as a marriage certificate or court order (no photocopies or notarized copies);
- * Valid ID and photocopy of that ID;
- * One color passport photo; and
- * Adult First-Time Applicant fees or Child Applicant fees, depending on your age.

Gender Marker Change:

The U.S. Department of State issues two (2) different kinds of passports depending where you are in your gender transition.

Status of Gender Transition	Kind of Passport	Validity of Passport
You have had appropriate clinical treatment*	Full Validity	10 years
You are in the process of getting appropriate clinical treatment	Limited Validity	2 years

*Your physician determines what appropriate clinical treatment is. Description of specific treatments is not required. The certification from your physician is based on his or her judgment of your treatment needs. This is in accordance with standards and recommendations of the World Professional Association for Transgender Health (WPATH), recognized as the authority in this field by the American Medical Association (AMA).

You must apply in Person for all regularly-required passport documents.

Requirements:

Unless you are replacing a limited-validity passport, you must apply using Form DS-11. You must include the following, in addition to the regularly-required documents (i.e. evidence of U.S. citizenship (i.e., fully-valid U.S. passport, U.S. birth certificate, etc.):

- * Driver license/ID that resembles your current appearance;
- * Passport photo that resembles your current appearance;
- * A medical certification that indicates you are in the process of or have had appropriate clinical treatment for gender transition; and,
- * Proof of legal name change (i.e., certified copy of Order for Change of Name and/or Gender).

Medical Certification:

A signed, original statement from a licensed physician must be on office letterhead and include:

- * Physician's full name
- * Medical license or certificate number
- * Issuing state or other jurisdiction of medical license/certificate
- * Address and telephone number of the physician
- * Language stating:

I, (Physician's full name), (physician's medical license or certificate number), (issuing state of medical license/certificate), am the physician of (Name of patient), with whom I have a doctor/patient relationship, whom I have treated (or whose medical history I have reviewed and evaluated).

(Name of patient) has had (or is in process of having) appropriate clinical treatment for transition to updated gender of (specify 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 Medical Provider
Typed Name of Medical Provider
Date

If your goal is to obtain a full ten-year validity passport book, a physician must certify that “you **have had** appropriate clinical treatment for gender transition.”

If a physician certifies that “you **are in process of having** appropriate clinical treatment for transition to the updated gender (male or female)” then you will be able to obtain a limited-validity passport book.

Interestingly, you do **not** have to have the gender marker on your birth certificate and/or driver’s license changed before you can get the gender marker changed on your passport. Your citizenship evidence (e.g. U.S. birth certificate) and driver license/ID do not have to show your updated gender marker, but the photo on your driver license/ID must resemble your current appearance.

Passport Forms (and the Form Filler) are available at:

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

Resource: U.S. Passports & International Travel, Department of State, Bureau of Consular Affairs, <https://travel.state.gov/content/passports/en/passports/information/gender.html>

Military Discharge Record (DD214):

Currently there is no publicly available guidance from the Department of Defense on how to update your information in the Defense Enrollment Eligibility Reporting System (DEERS) and on the DD214 Military Discharge Record. Until clear guidance is published, below are the National Center for Transgender Equality recommendations for how to update your information on military records.

Congress authorized the correction of military records when it is considered necessary to rectify an error or to remove an injustice [10 U.S.C. § 1552 (a)(1)]. The form DD214 does not list gender, but it does list your name. While for most non-transgender people a service record showing a former name does not communicate any sensitive information, for transgender people disclosure of the former name can be equivalent to disclosure of transgender status. This disclosure can be considered an injustice, and is the basis for your request to update your name on the DD214.

Each military department has their own Board for Corrections of Military Records, and each Board has the discretion to evaluate requested corrections on a case-by-case basis. Generally speaking, to update your DD 214 Military Discharge Record you will need the following:

- DD Form 149, Application for Correction of Military Record
- Evidence to support your name change request:
 - * Certified copy of Order for Change of Name and/or Gender.
 - * U.S. Passport showing your updated name and gender, state driver license or identification card showing your updated name and gender, court order recognizing gender transition
 - * A signed statement, on office letterhead, from a licensed physician, verifying that you have had appropriate clinical treatment for gender transition.

The DD149 form gives you the opportunity to make a case for why having a prior name on your military record is an injustice for you. You should personalize your responses on the DD149 form according to your situation. Below is sample language to give you an idea of how you can make your case. Sample Answers:

Question 6. I believe the record to be in error or unjust for the following reasons:

I am a transgender [man/woman/person]. I changed my legal name from [prior name] to [current name] in [year], as evidenced in the attached name change order, to align my name with my gender identity. The appearance of my old name on my DD 214 is an injustice because it discloses my transgender status every time I show my DD 214. This is an injustice due to the social stigma and discrimination that transgender people face. This injustice can be remedied effectively by issuing a corrected DD214 listing my current legal name. See attached for further explanation.

Question 8. Discovery of Alleged Error or Injustice

a. Date of Discovery – You can put in a date that was important in your transition process—such as the date when you socially transitioned, legally changed your name, or updated your identification, or you can use a date when you attempted to use your DD 214 and you were “outed”.

b. If more than three years since the alleged error or injustice was discovered, state why the board should find it in the interest of justice to consider the application, such as: I was not previously aware that it was possible to remedy this injustice, and I request correction of my record so I will not continue to have to reveal my transgender status every time I show my DD214.

If you are in “active duty service” you CANNOT change your gender in DEERS. So long as the military branches continue to list transgender status as disqualifying, attempting to change your gender in DEERS could put you at risk of discharge or other negative repercussions.

Resource: National Center for Transgender Equality,
<http://www.transequality.org/know-your-rights/military-records>

I hope you find these steps helpful. If I can be of further assistance, please let me know. It has been an honor and a privilege to assist you.

Respectfully,

THE COOLEY LAW FIRM



Shelly Booth Cooley