

Procedure for Change of Name MINOR

Be advised that if you are acting without an attorney, it is your responsibility to correctly prepare and submit the required documents. The employees of the Genesee County Clerks Office, by law, are not permitted to give legal advice.

READ ENTIRE PACKET CAREFULLY BEFORE BEGINNING

It is possible to change a child's name without performing a legal name change. Listed below are some alternate ways that a change in a child's name can occur. This is not an exhaustive list; it simply covers some common situations. The Petitioner bears the responsibility to decide what method to use to accomplish changing their child's name. The employees of the Genesee County Clerk's Office do not have the ability to determine which method is required.

1. Correction of a Birth Certificate. If the problem that you want to correct involves a mistake on your child's birth certificate, check with the Michigan Department of Public Health, Office of the State Registrar at (517) 335-8660 for the proper procedure.

2. Changing Last Name After Paternity is Established. If no name of a father is indicated on the birth certificate and therefore, the child has a different last name, the last name can be changed to the father's last name after paternity is established. Both parents must agree. A copy of the paternity/child support order may be needed. Check with the Michigan Department of Public Health, Office of the State Registrar at (517) 335-8660 for the proper procedure.

3. Name Change in Conjunction With an Adoption. When an adoption is finalized, the court will include in the Order of Adoption, a section about the new name after adoption. A certified copy of the Order of Adoption must be presented to the Public Health Department with the proper fee for a new birth certificate to be prepared. Check with the Michigan Department of Public Health, Office of the State Registrar at (517) 335-8660 for the proper procedure.

4. Name Change in Conjunction with Marriage of Biological Parents. If a child is born out of wedlock and, at the time of birth, given a last name other than the biological father then the biological parents later marry, it may be possible to change the child's last name by correcting the birth certificate. Check with the Michigan Department of Public Health, Office of the State Registrar at (517) 335-8660 for the proper procedure.

The following is a procedural self help guide. The procedure outlined applies to legal name changes petitioned through the Circuit Court/Family Division. This procedure applies to those individuals under 18 years of age and is necessary in order to comply with Public Act 106 of 1996, MCLA 711.1. The

petitioner/parent (or legal guardian when parents are deceased) must comply with the following requirements:

1. The petitioner must be a resident of Genesee County (county in which the petition is filed) for not less than one year.
2. The petitioner must show sufficient reason for the proposed name change.
3. The name change cannot be sought for any fraudulent intent.

Filing of Documents

To petition the court for a name change, the petitioner submits the following documents along with a \$150 filing fee to the Genesee County Clerks Office. **All documents filed with the court must be typed or clearly printed in ink.** Remember, it is the Judge's decision whether or not to grant your request to change name. If the Judge denies your request, **none** of the fees you paid will be refunded.

1. **Petition To Change Name** The front and back of this form is to be completed and signed by the petitioner(s) and minor(s). A court file number will be assigned when the Petition is filed. If you want to have a new birth certificate created after the name change is granted, you **MUST** make that known by completing Item #9 on the back of the Petition.
2. **Publication of Notice of Hearing** Complete this form and submit to the Clerk's Office along with a money order (no cash or checks) made out to the Flint-Genesee County Legal News in the amount of \$80.25. At the time of filing the Publication of Notice of Hearing a hearing date will be filled in by the Clerk's Office (date will be at least 4 weeks away). The Clerk's Office will forward the fee (\$80.25) and appropriate documents to the Flint-Genesee County Legal News on behalf of the Petitioner after filing. Publication of the Petition is required by law.
3. **Birth Certificate** of the minor (a photo copy is sufficient).
4. **Death Certificate** if minor's parent is deceased (photo copy is sufficient).
5. **Waiver/Consent** (if applicable) This form is completed and signed by the non-custodial parent (signature must be notarized) to indicate that he/she does not object to the proposed name change. If the non-custodial parent refuses to sign the Waiver/Consent, see below "Without the Consent of the Non-custodial Parent".

Once the above documents have been filed, the Petitioner must arrange for service upon the non-custodial parent. See below "Proof of Service" for instructions.

Without the Consent of the Non-custodial Parent

The Michigan State Law provides for two situations where the court will consider ordering a name change of a minor without the consent of the non-custodial parent. The requirements for these situations are:

A. The non-custodial parent, having the ability to support or assist in supporting the child, has failed or neglected to provide regular and substantial support for the child or, if a support order has been entered, has failed to substantially comply with the order, for 2 years or more before the filing of the petition, *and*

The non-custodial parent, having the ability to visit, contact, or communicate with the child, has regularly and substantially failed or neglected to do so for 2 years or more before the filing of the petition.

In situations where the consent of the non-custodial parent is not obtained and the above requirements are met, the petitioner for the name change of a minor will also attach the following documents to the Petition to Change Name:

1. **Divorce Decree / Circuit Court Paternity Order / Child Support Order / Child Custody Order** if such an order exists.
2. **Friend of the Court Statement** - Submit this form if a support order exists. It is a statement of child support payments made to FOC within the last 2 years.

B. The non-custodial parent has been convicted of a violation MCLA 750.136b (child abuse), 750.520b (criminal sexual conduct 1st degree), 750.520c (criminal sexual conduct 2nd degree), 750.520d (criminal sexual conduct 3rd degree), 750.520e (criminal sexual conduct 4th degree), and 750.520g (assault with intent to commit criminal sexual conduct involving penetration), and the child, or a sibling of the child, is a victim of the crime.

In cases where the non-custodial parent meets the offender criteria above, the petitioner for the name change of a minor will also attach to the Petition a certified copy of the **Judgment of Sentence** for the crime committed by the non-custodial parent. A Judgment of Sentence can be obtained at the Circuit Court for the County in which the conviction took place.

Proof of Service

Choose below from the two acceptable methods of service of the documents (Personal Service or Service by Mail).

SERVER

1. Process Server (charge a fee for services)
2. Adult over the age of 18 who is not the Petitioner

PERSONAL SERVICE

1. Have a server (see above) hand deliver copies of all documents filed on the non-custodial parent.
2. Once that person serves the documents, they need to fill out the "Proof of Service" included in this packet and sign it. Their signature must be notarized.
3. Return the completed/notarized "Proof of Service" to the Clerk's Office as soon as possible. It will be placed in the court file. The Proof of Service must be filed at least 10 days prior to the hearing.

SERVICE BY MAIL

1. Have a server (see above) mail copies of the documents to the non-custodial parent. They must use registered/certified delivery restricted to the non-custodial parent, return receipt requested (green card).
2. Once the postman delivers the documents to the non-custodial parent and that person signs for it, the US Postal Service will return the green card to the person who mailed it. The server must complete the "Proof of Service" contained in this packet and staple the green card to the "Proof of Service". Their signature must be notarized.
3. Return the completed/notarized "Proof of Service" to the Clerk's Office as soon as possible. It will be placed in the court file. The Proof of Service must be filed at least 10 days prior to the hearing.

Affidavit of Diligent Search

This form is submitted when the petitioner has been unsuccessful in determining the whereabouts of the non-custodial parent. It certifies what efforts the petitioner has made to locate and serve the non-custodial parent a copy of the petition and notice of hearing.

Note: When the address of the non-custodial parent cannot be ascertained, the Publication of Notice of Hearing must also include the non-custodial parent's name at the top of the form just after "TO ALL INTERESTED PERSONS including:".

It is the judge's decision whether or not a petition can be considered if the non-custodial parent has not been served. You may be ordered to take additional steps by the Judge before your Petition to Change Name is considered. If additional steps are necessary, you will be advised at the hearing.

The Hearing

The petitioner(s) and minor(s) must appear in the courtroom at the scheduled time of the hearing. Be advised that your failure to appear at the hearing on the scheduled date and time could result in your petition being dismissed. If your case is dismissed, the filing fee will not be refunded to you. Testimony regarding the name change is taken from the petitioner and minor, if 14 years of age, or if the Court considers the minor child to be of sufficient age to express a preference.

On the **Order Following Hearing on Petition to Change Name** complete to top portion of the form down to and including Item #1 and take the form to court with you. The judge will complete Items #2-15 after they have made a decision. When you arrive at the courtroom, provide the partially completed Order form to the court clerk who will, in turn, provide it to the judge. If the judge approves your petition, he signs the **Order Following Hearing on Petition to Change Name** immediately.

After the Hearing

As soon as you leave the courtroom with your signed Order, you **MUST** go to the Clerk's Office and file it. You are required to file the signed Order for it to be valid. When you file the original with the Clerk's Office, you will be given one certified copy of this order at no cost. There is an \$11 charge for each additional certified copy.

Birth Certificate Change

If you want to change the child's name on their birth certificate, the petitioner must specifically include this request on the Petition for Change of Name at Item #9. After the Order Following Hearing on Petition to Change Name is filed with the Clerk, the Petitioner is responsible to submit an **Application to Correct a Certificate of Birth** (State of Michigan form B-79) to the State Registrar in Lansing. This application is available at the Clerks Office, Vital Records Division. An additional fee will be charged to correct the birth record and a certified copy of the **Order Following Hearing on Petition to Change Name** will be required by the Michigan Department of Health. Only the name may be changed. No other information on the Birth Certificate may be changed or added. If the petitioner was born in a state other than Michigan, it will be necessary to check with that state's laws and procedures for correcting a birth certificate.

STATE OF MICHIGAN 7th JUDICIAL CIRCUIT - FAMILY DIVISION COUNTY	PETITION TO CHANGE NAME	FILE NO. JUDGE
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In the matter of the name change of _____
Present first name(s), middle name(s), and last name(s) (type or print)

to _____
Requested new first name(s), middle name(s), and last name(s) (type or print)

1. An action within the jurisdiction of the family division of circuit court involving the family or family members of the above named person(s) has been previously filed in _____ Court, Case Number _____, was assigned to Judge _____, and remains is no longer pending.

2. The name change is for:

a. a married person who wishes to also include a name change for:
 his/her spouse. his/her minor child(ren), of whom the petitioner has legal custody.

b. an adult.

c. a minor, whose natural or adopted parents are: _____ and _____
 Mother
 Father

Both parents are deceased. The guardian is _____ (attach letters of guardianship)
Name

3. The name change is for the following reason: _____

4. The name change is not sought for any fraudulent intent.

5. The following person(s) seeking a name change have a criminal record: _____

6. Each person for whom a name change is sought has been a resident of the county for at least one year. [Complete item 7. only if the name change is for a minor. Please see other side for remainder of petition.]

7. I have legal custody of the minor.

a. The noncustodial parent has had the ability to visit, contact, or communicate with the child and has regularly and substantially failed or neglected to do so for a period of two years or more before the filing of this petition **and either**:

a support order has been entered, and the noncustodial parent has failed to substantially comply with the order for a period of two years or more before the filing of this petition; **or**

a support order has not been entered and the noncustodial parent, having the ability to support or assist in supporting the child, has failed or neglected to provide regular and substantial support for two years or more before the filing of this petition.

b. The noncustodial parent has been convicted of child abuse (MCL 750.136b), criminal sexual conduct (MCL 750.520b, MCL 750.520c, 750.520d, or 750.520e), or assault with intent to commit criminal sexual conduct (MCL 750.520g) and the child or a sibling of the child was the victim. (attach judgment of sentence)

c. The last known address of the noncustodial parent is: _____

The noncustodial parent is not living at the above address, and I have taken the following steps to locate him/her: _____

(PLEASE SEE OTHER SIDE)

Do not write below this line - For court use only

STATE OF MICHIGAN 7th CIRCUIT COURT COUNTY OF GENESEE FAMILY DIVISION	PUBLICATION OF NOTICE OF HEARING	FILE NO. JUDGE
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In the matter of _____ Social security no. _____

NOTICE: A hearing will be held on _____ at _____ m. in the
Date Time
Circuit Court / Family Court Division-Flint, Michigan before Judge _____

on petition to change name.

FROM:

TO:

_____		Date _____
Attorney name (type or print) _____	Bar no. _____	Petitioner name (type or print) _____
Address _____		Address _____
City, state, zip _____	Telephone no. _____	City, state, zip _____ Telephone no. _____

PUBLISH ABOVE INFORMATION ONLY

Publish 1 time(s) in GENESEE COUNTY LEGAL NEWS in GENESEE County
Name of publication

Furnish _____ copies to _____

Furnish affidavit of publication to the Circuit Court/ Family Division.

Forward statement for publication charges to PRE-PAID Money Order #

***NOTE TO PREPARER:** If there is an interested person whose address is unknown and cannot be ascertained after diligent inquiry, insert immediately following the entitlement of the matter, "To [name of interested person] whose address(es) is(are) unknown and whose interest in the matter may be barred or affected by the following:".

Do not write below this line - For court use only

STATE OF MICHIGAN PROBATE COURT COUNTY 7th CIRCUIT COURT - FAMILY DIVISION	PROOF OF SERVICE	FILE NO. JUDGE:
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In the matter of _____

1. Titles of the papers served or mailed: _____

2. I served by ordinary mail registered mail (copy of return receipt attached) certified mail (copy of return receipt attached) the papers described above on:

Name	Complete address of service	Date

3. I served by **personal service** the papers described above on:

Name	Complete address of service	Date and Time

4. After diligent search and inquiry, I have been unable to find and serve the following interested persons:

I have made the following efforts in attempting to serve process: _____

I declare under the penalties of perjury that this proof of service has been examined by me and that its contents are true to the best of my information, knowledge, and belief.

Service fee	Miles traveled	Mileage fee	Total fee
\$		\$	\$

Date

Signature

Subscribed and sworn to before me on _____, _____ County, Michigan.
Date

My commission expires: _____
Date

Signature: _____
Notary Public

STATE OF MICHIGAN 7th JUDICIAL CIRCUIT - FAMILY DIVISION COUNTY	ORDER FOLLOWING HEARING ON PETITION TO CHANGE NAME	FILE NO. JUDGE
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In the matter of the name change of _____
Present first name(s), middle name(s), and last name(s) (type or print)

to _____
Requested new first name(s), middle name(s), and last name(s) (type or print)

1. Date of Hearing: _____ Judge: _____ Bar no.

THE COURT FINDS:

- 2. A petition for name change has been filed.
- 3. Notice of hearing was given by publication.
- 4. Each person for whom a name change is sought has been a resident of the county for at least one year.
- 5. The court has received the required criminal record report(s) from the Michigan Department of State Police.
- 6. _____ has a criminal record.
Name(s) (type or print)
- 7. a. The request for name change of _____ is
made with fraudulent intent. Name(s) (type or print)
- b. The request for name change of _____ is not
made with fraudulent intent. Name(s) (type or print)
- 8. The petitioner, having legal custody, requests the name change of a minor. The noncustodial parent has consented to the change.
- 9. The petitioner requests the name change of a minor. The custodial parent has consented to the name change. The noncustodial parent was given notice of the hearing.
 - a. The noncustodial parent has had the ability to visit, contact, or communicate with the minor but has regularly and substantially failed or neglected to do so for the past two years, and
 - a support order has been entered, and the noncustodial parent has failed to substantially comply with the order for a period of two years or more before the filing of the petition for name change; or
 - a support order has not been entered and the noncustodial parent, having the ability to support or assist in supporting the child, has failed or neglected to provide regular and substantial support for two years or more before the filing of the petition for name change.
 - b. The noncustodial parent has been convicted of child abuse (MCL 750.136b), criminal sexual conduct (MCL 750.520b, 750.520c, 750.520d, or 750.520e), or assault with intent to commit criminal sexual conduct (MCL 750.520g) and the child or a sibling of the child was the victim.
- 10. The minor(s) under the age of 14 have stated their preference to a name change.
- 11. The minor(s) is/are not of sufficient age to express their preference to a name change.

(PLEASE SEE OTHER SIDE)

Do not write below this line - For court use only

IT IS ORDERED:

12. The name(s) of the following person(s) are changed:

From:

To:

13. The State Registrar shall create a new live birth certificate for _____

which does not disclose the name at birth and shall seal the original certificate.

14. The request to change the name of _____ is denied.

15. The request is denied and the petition is dismissed.

Date

Judge

Attorney name (type or print) Bar no.

Address

City, state, zip Telephone no.

NOTE TO PETITIONER: You must provide this order to the State Registrar if you want to change your birth certificate.

Note to Clerk: Under MCL 711.1(3), if the court enters an order to change the name of a person who has a criminal record, the court shall forward the order to the central records division of the Michigan State Police and to 1 or more of the following:

- The Department of Corrections if the person named in the order is in prison or on parole or has been imprisoned or released from parole in the immediately preceding 2 years.
- The sheriff of the county in which the person named in the order was last convicted if the person was incarcerated in a county jail or released from a county jail within the immediately preceding 2 years.
- The court that has jurisdiction over the person named in the order if the person named in the order is under the jurisdiction of the family division of the circuit court, or until January 1, 1998, the probate court, or has been discharged from the jurisdiction of that court within the immediately preceding 2 years.