

Name and Gender Marker Correction, Dallas County, Texas

by
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Introduction

Doing your own name and gender correction (called filing *pro se*) can be challenging and a bit scary because you don't want to either have your petition rejected by the judge or be told you did something wrong and have to do it over, potentially incurring additional filing fees.

These instructions should help you understand the process to alleviate anxiety. We will cover the instructions for obtaining a court order that allows you to correct your name and gender marker changes on a Texas Driver's License or Identity Card as well as your birth certificate.

We have pulled together this information to try to simplify the process, as currently in place in Dallas County. The general procedure should be applicable for other counties, but the forms, costs, and some procedures likely will be a little different.¹

The five basic steps in filing for a name change or name and gender change are:

- ❖ get a letter from your physician (or a counselor if not receiving medical treatment related to gender identity—currently, you will likely need a letter from either a physician or a counselor; note that the letter does not need to identify any surgery or other specific medical treatment),
- ❖ fill out the forms,
- ❖ file the forms,
- ❖ get fingerprinted (for background check) and send it to Austin, and
- ❖ see the judge.

Although this should be all that is needed, some judges have asked for additional documentation, at least for the gender marker correction. You may want to collect one or more of the following documents to help substantiate your petition. These would be carried with you to court in case the judge asks for additional support for the request.

- ❖ Counselor letter (probably should be less than a year old, possibly the more recent the better; in the opinion of Trans Pride Initiative, a counselor letter should never be required, and we hope to one day help formalize that with the judges).
- ❖ Letters from acquaintances who know you in your affirmed gender role (if you are trying to do this without a letter from a physician or counselor, you will probably need some sort of testimony like this to prove a basis for your petition).

Most counselors should have their own format to use for letters of this kind. Sample physician and acquaintance letters can be found on the Trans Pride Initiative web site under Resources. The

1. Note that you can also read about the general process at TexasLawHelp.org, in their Name Change Kit, available here: http://texaslawhelp.org/files/685E99A9-A3EB-6584-CA74-137E0474AE2C/attachments/F448FB0A-9D07-43C5-BD7F-A52CF6741A38/name_adult_kit_final.pdf. This includes the forms, but *does not* include any information on gender marker corrections. If this link does not work, search for “adult name change forms” and look for “Adult Name Change Forms and Instructions in English and Spanish” in the results.

acquaintance letter should be modified to reflect the relationship and level of knowledge about the petitioner; acquaintance letters are probably the least important documentation, and you should only get them if the acquaintance knows you well. It is best if they can write the letter as a representative of an organization involved in community advocacy.

Note for persons with felony convictions: If you have been convicted of a felony, you must wait two years after the completion of all terms of your sentencing to apply for the name and/or gender marker correction. If your sentence is adjudicated, you should be able to petition a court as soon as you complete the terms of your sentence. However, TPI advises folks to contact an attorney to discuss your specific situation related to any convictions.

Preparing and Filing the Court Documents

Step 1: Fill Out the Forms

You will be completing two “forms”:

- ❖ a petition to the court requesting the legal changes, and
- ❖ the order that the judge will sign when they grant your petition.

Note that it may be a good idea to fill both these out at the same time if that is easier for you to make sure the information matches, but you will not be using the final order until you see the judge.

Name Change Only

If filing for a name change only, you should use a simple fill-in-the-blank form that is available from three places.

- ❖ TexasLawHelp.org—This is part of the Name Change Kit available at TexasLawHelp.org (see Footnote 1, above).
- ❖ Dallas County Law Library, at the George Allen Courts Building, Second Floor. They will give you a master that you can copy in the library. Copies were \$0.25 per page in November 2016.
- ❖ The Trans Pride Initiative web site. Note that *it is recommended to get the forms online or at the Law Library* to make sure you have the most current version.

Fill out everything in the Petition except for the cause number, court type, and county blank at the top of the first page, which the clerk will complete when you file.

Do not sign yet. You will sign the petition in front of the notary, covered in the next section, “File the Forms.”

Now fill out the final order, except for the cause number, court type, and county blank at the top of the first page.

Name and Gender Marker Correction

The forms described in the “Name Change Only” section above have no provision for correcting one’s gender marker, so for that you will need to complete your own petition and final order. You are basically including all the information provided on the fill-in-the-blank forms and adding an additional request to correct your legal gender.²

Templates that you can use for this can be found on the Trans Pride Initiative web site (tpride.org), under Resources.

PLEASE NOTE that these have worked before, but we are not lawyers and make no guarantee that these will work in your *pro se* filing. In providing these, we are not providing legal advice. We are simply providing a template on which to base your petition and final order.

Make changes to everything enclosed in square brackets [] in the petition (delete the square brackets – they are just markers to show where you need to make changes). Leave the cause number, court type, and county blank at the top of the first page as the clerk will complete these when you file.

Note on paragraphs 11 and 13 of the Petition: The text provided states that the petitioner has “undertaken the necessary treatment to transition” from one socially defined gender to another. If you are taking hormones, you may want to specify “necessary *medical* treatment” here as the judge may be more inclined to award the correction if medical treatment has been started. If you use other justifications, you may want to refer to the WPATH guidelines and state that you are following those guidelines. If you change either of these paragraphs or any other paragraphs, make the same changes to the final order as well.

Do not sign yet. You will sign the petition in front of the notary, covered in the next section, “File the Forms.”

Now fill out the final order, except for the cause number, court type, and county blank at the top of the first page.

Note for Persons with Convictions

Please note that you must report on the petition and order your conviction-related information. Instead of stating you have no SID or FBI number, you must state that you have an SID or FBI number and provide that number. Make these changes as appropriate to your situation.

If you have been charged with a crime above Class C misdemeanor, you must state that.

If you have been charged with, convicted of, or served a period of deferred adjudication, you must report that also.

2. Correcting the gender marker on state identification should allow you to correct most other gender markers, such as the gender you are listed as for insurance, bank accounts, and so forth. You can now correct your U.S. Passport gender markers through a separate process, described in a policy resource on the web site of the National Center for Transgender Equality (transequality.org).

Step 2: File the Forms

You will be filing the forms at the county courts building, and this is likely true of most counties in Texas. In Dallas, the location is:

George L. Allen, Senior, Courts Building
600 Commerce Street
Dallas, Texas 75202

The following instructions, where describing locations, are for Dallas County. Specifics may differ for other counties, but they will likely be similar.

Talk to a Clerk

The petition will be filed in the District Clerk's office on the first floor. You can ask the guard where it is, but it is very easy to find. After going through the security check, you will see just ahead of you a hallway to the right. Go to the end, by the elevators, and the clerk's office is on the right.

Wait in line for the next available clerk. Show the paperwork to a clerk, who will look it over, give you the price, and may have you fill out a filing form. After, the clerk will point you to the notary behind you.

Have the Petition Notarized

Go to the notary's desk. *This is where you sign the petition.* Follow the instructions from the notary, who will have you sign the document and sign the record book. The charge in November 2016 was \$6.00 to have the petition notarized. If you know a notary who can provide for free or cheaper, you may have it notarized before going to the District Clerk.

Make Photocopies

Now you will want at least two copies of your petition as you will file the original. Copies are cheap, so you may want to make three copies just in case. One copy will be sent with your fingerprints for the background check, and the others are for your files or a replacement if something is lost.

Go to the second floor (elevators are just outside the clerk's office), and look to the side as you get off the elevator for the doors to the Law Library. Copies there cost \$0.25 per page in November 2016.

File the Petition to Get the Court Assignment

Return to the first floor District Clerk's office to see a clerk. If you didn't fill out the filing form before having your petition notarized, you will do so now. The clerk can show you where to select the type of action you are taking if it isn't clear. There are two options here:

- ❖ The form has the name change action listed as a family court procedure, and that is what they should give you if you are filing for a name change only. The cost for the name change in a *family court* in November 2016 was \$277.
- ❖ Not shown on the form is the name and gender marker correction, so you will need to let the clerk know if you are changing both your name and gender marker. The clerk will probably assign you to a *civil court* for that, and the charge in November 2016 was \$287.

Here you will need to *make sure to inform the clerk if you are doing the gender marker correction so you are assigned to the correct court*. Also, give your copies of the petition to the clerk and they can stamp them to show they are official.

The clerk will assign you to a court, stamp the court number on your petition and copies, and take your money. They then should direct you to the appropriate floor to pick up fingerprint instructions. Follow the instructions to go to the clerk for the appropriate court to pick up your fingerprint instructions and package, if available.

IMPORTANT NOTE ON COURT FEES: If you receive any type of public benefits, including healthcare provided by Parkland Hospital, you may ask the clerk to have the court fee waived. You will fill out the “Statement of Inability to Afford Payment of Court Costs or an Appeal Bond,” available from the clerk or the Trans Pride Initiative web site. If you don’t receive any public assistance, you may still qualify for the waiver, so bring bank statements or any other documentation you can come up with to make a case for having limited income.

Pick Up the Fingerprint Package

The fingerprint package will provide instructions and options for fingerprinting. In the past, the court clerk would provide an envelope with two fingerprint cards and a photocopied page about where to go to get the fingerprints done. Most courts now do not provide the fingerprint cards. Note that the court clerk *may not have any fingerprint instructions or packages to give you*. If not, just follow the instructions in the next section.

Note about going to the civil court: If you are petitioning for a gender marker correction, the clerk for the civil court to which you are assigned may think you have been assigned to the wrong court because they may handle few gender marker corrections; they may try to send you back to the District Clerk to be assigned to a family court. *Be patient* and explain that you are getting a gender marker correction with the name change, and that the person in the main clerk’s office said the civil court was correct for that. Again, be patient! This is not a standard procedure that every clerk knows about. They may have to make some phone calls, but will eventually work it out.

Step 3: Fingerprints

There are a few options for getting your fingerprints taken. In the past, you could go to to the Dallas County Constable's office at the Oak Cliff Sub-Courthouse (410 South Beckley Avenue, Dallas, Texas

75203), but some have reported limited hours there now. If you didn't get the fingerprint package at the courthouse, let them know you need two fingerprint cards done.

A more expensive but more convenient option for some is to make an appointment through a service that does fingerprinting: <http://www.identogo.com/>. Follow the instructions available online.

A third option is the Lew Sterrett North Tower fingerprint office.

Lew Sterrett Justice Center, North Tower
111 West Commerce Street
Dallas, Texas 75208

Park across the street for \$4.00, then walk over to the buildings in the justice center complex. Go into the building on your left to get to the North Tower. Ask at one of the information windows just inside the door for the fingerprint office, and they can point you in the right direction. They may tell you to make several turns and it may sound confusing, but it is actually fairly easy to find. As you walk along the hallways, keep an eye out for a small sign that says "Fingerprint Office." Go up to the window and let them know you need fingerprinting, and they will charge you the fee, around \$5.00 per card.

If you received a fingerprint package, the instruction sheet will have the address for the Texas Department of Public Safety office where you need to send the fingerprint cards for the background check. If not, check at this document: <http://www.txdps.state.tx.us/internetforms/Forms/CR-65.pdf>. The fingerprints are being sent to do a state and federal background check for criminal history.

Make sure the forms are filled out completely and send them to the DPS office with your payment by check or money order for the background check.

IMPORTANT NOTE: Currently, the Department of Public Safety is requiring a copy of the petition with the background check request. This request started in the spring and summer of 2015, when DPS began trying to deny gender marker corrections to persons who had not had genital surgery. Dallas judges were informed of this request, and all have felt strongly that this is a serious overreach of authority. They are willing to take action if a background check is denied for this reason, or because some requirement is imposed that is greater than what the judges require. If you experience this type of denial, please contact Trans Pride Initiative. Also, if you only provided the last four digits of your Social Security number on the petition, **provide the whole Social Security number to DPS.**

The cost should be \$27.00 as per the DPS instructions in November 2016. Be sure to mail them with tracking or receipt verification (check at the post office for options) so that you know they arrive where they are supposed to go.

Once your fingerprints are submitted, you wait a few weeks for the background check to be done. You can check the status of your case with the Dallas County Online Records Search tool (http://www.dallascounty.org/applications/english/record-search/rec-search_intro.php). Scroll down to the "Civil Records" section and click on "Dallas County District & County Courts Case and Document Information." Using the "Smart Search" option, enter your legal last name, and that should bring up results for your name. Click on your name in the results, scroll down to the Cases section, click on the case number, then scroll down to the "Events and Hearings" section. When you

see an entry under that called “Criminal History,” your background check has been completed and returned to the court.

EXTRA FINGERPRINT CARD: Note that at the time of this report, some courts are requiring a copy of the fingerprints to be filed with the court documents, so get an extra fingerprint card just in case. The 116th and 134th District Courts are definitely requiring this, and others may as well. It’s best to just have an additional copy made in case you are asked for it. If you didn’t get an extra copy and the court asks for it, don’t panic! You can make a trip over to the Lew Sterritt complex and get a copy pretty quick, possibly getting it back to the court the same day.

Going Before the Judge

The Court Date

Once the criminal background check has been returned to the court, call the clerk of the court to which your petition was assigned and ask to set your court date. They should be able to set you a court date within a few weeks of when you call, but when it is depends on the schedule for the court.

And now you wait for your court date—you’re almost there!

Go to Court

On the day of your appearance before the judge, plan to arrive a little early to make sure you allow for any unexpected problems. Dress conservatively, business or business casual. Take your final order with you, and have a copy of the final order in case it is needed. Be sure to have any supporting documentation (such as letters from counselors, physicians, and acquaintances) ready so that you can get them quickly if the judge wishes to see them.

When you arrive, you may want to check with your court’s clerk (where you went for your fingerprint packet) to see if there are any changes. Sometimes cases get shuffled to other judges. Then go to your assigned court and check in with the bailiff or clerk there. Some people have been given transcripts to read when they appear before the judge, but others have not. Just ask for any instructions if you are not sure. It’s better to ask questions of the clerk or bailiff rather than the judge.

In some courts you may give your order to a court official such as the bailiff to give to the judge, but most likely you will hold onto it until it is your turn. The judge will have your petition, and will ask for the final order when they want it.

Wait your turn, and approach the judge when your name is called. If asked if you are present and ready, you may announce “ready.” Always address the judge with “Sir/Ma’am/Your Honor” and be polite. Answer any questions completely, but avoid rambling or straying from the topic.

If the judge asks you to give your testimony, you do not need to provide anything elaborate. You may take your copy of the petition and basically read items 1 through 14 speaking for yourself (using “I” instead of “Petitioner”).

If the judge decides not to sign your orders, or to only grant part of your petition (they could grant the name change but not the gender marker correction, for example), you may ask what the judge recommends to address any deficiencies in your plea, but do not argue. Thank the judge when your petition has been decided. Sometimes the judge can offer solutions that will result in granting the order.

These instructions won’t go into what to do if your petition is denied. The best advice is to follow any instructions the judge provided, and you may need to seek the advice of an attorney at that point.

The Final Steps

When the judge’s final order is signed in your favor, first, congratulate yourself! You did it!

The original final order that the judge signed will be filed, but you will return to the clerk for that court (the judge should specify where you should go when you leave the courtroom) to take care of the final filing of the order. There, the clerk can stamp all your copies so you have certified copies for places you need to submit certified copies to make changes to your name and gender marker. In Dallas County, these certified copies are free, but there is a charge for certified copies if you go back to the court to get them later.

Change your Identification

You can start immediately changing your identification. Just take a certified copy of the final order with you to document the legal name and gender correction. Local places you visit in person may not need to keep a certified copy, but some places may require one. Some of the places where you should change your name and gender marker are listed here.

- ❖ Department of Public Safety (driver’s license or state identification)
- ❖ Employers
- ❖ Bank and brokerage accounts
- ❖ Utility companies
- ❖ Lease agreements
- ❖ Mortgage agreements
- ❖ Other loans
- ❖ Wills and other legal instruments
- ❖ Tax appraisal offices
- ❖ Insurance policies
- ❖ Social Security Administration
- ❖ U.S. Department of State (passport)
- ❖ Doctor offices
- ❖ Auto and other vehicle titles
- ❖ Professional Organizations
- ❖ University/School records

Note on Birth Certificate Changes

In late 2015, changes were made to the way birth certificates are modified. In the past, using a court order to change a birth certificate meant the document was “amended,” so an original was kept and an amended certificate was produced. The “short form” birth certificate would only show the information as amended, but the “long form” birth certificate would show the original and amended version, outing a trans person.

Currently, you may request that the original birth certificate be sealed (meaning only those with a court order may access), and the birth certificate be reissued, essential providing a new birth certificate. According to attorney Katie Sprinkle, these are the steps to have the original sealed and the new birth certificate “reissued.” Visit the Department of State Health Services Vital Statistics page here: <https://www.dshs.state.tx.us/vs/reqproc/forms.shtm>, and download these two forms:

- ❖ VS 170, Application for an Amendment to a Birth Record
- ❖ VS 142.3, Mail Application for a Certified Copy

Complete both forms. Persons who were born before 1990 must include both parents full dates of birth, but that information is not needed if you were born after 1990. Include a certified copy of the court order correcting name or gender marker. Include a brief note asking that the original birth certificate be sealed and a new one issued. The fee currently is given as \$37 (\$22 for the certificate and \$15 for the filing fee), but the fee for issuing a new birth certificate is actually \$47, so include payment of that amount if this is what you are requesting.

The Costs

Below are shown the total costs as of November 2016 for getting either a name change or name and gender marker correction. This *does not include* any costs for updating accounts and identifications such as getting a new driver’s license.

Approximate Costs for Name and Gender Marker Corrections, November 2016

	Name Change Only	Name and Gender Marker
Parking at George Allen Courts	\$2.00	\$2.00
Notarize the Petition	\$6.00	\$6.00
Copies of the Petition	\$6.00	\$6.00
File the Petition	\$277.00	\$287.00
Parking at Lew Sterrett Justice Center	\$4.00	\$4.00
Fingerprinting	\$10.00	\$10.00
Postage to send fingerprints to DPS	\$6.00	\$6.00
Background check	About \$30.00	About \$30.00
Approximate Total	\$341.00	\$351.00