

CHANGE OF NAME
(FOR PERSONS UNDER 14)

\$7.00

Background and General Information

This packet is designed to help you through the process of completing a Change of Name case. You must be under the age of 14 in order to use this packet.

INCLUDED DOCUMENTS

- Text of Statute for Change of Name
- Petition to Change Name
- Mother's Consent to Change Name
- Father's Consent to Change Name
- Notice of Petition to Change Name
- Final Order Changing Name
- Order Sealing Final Order to Change Name
- Request for Interpreter
- Sample Letter to Vital Statistics
- FAQs regarding Vital Records and Real ID

BACKGROUND

The District Court of New Mexico has jurisdiction to order a name change if the Petitioner is a resident of this state. The petition must be filed in the county in which the Petitioner resides. A copy of the statute governing name change is included with these materials. The forms in this packet are for handling your own court case Pro Se (without an attorney). If you feel you need further assistance or representation, please consult an attorney. As a self-represented litigant, it is your responsibility to comply with all court rules and procedures.

This packet gives basic information and instructions on preparing and filing a petition and the other pleadings to complete the change of name process. You will have to read the instructions carefully and tailor everything to fit your own situation.

There are additional associated costs with name changes including the filing fee of \$132.00

Certified copies - \$1.50 each
Filing with the County Clerk - \$25.00
Birth Certificate - \$20.00

SPECIAL INSTRUCTIONS FOR NAME CHANGE FOR PERSON UNDER THE AGE OF 14 YEARS

Procedure when both parties agree to name change.

The child must reside in New Mexico. If both parents agree that the child's name should be changed, it is possible for both parents to be petitioners. It is also possible for one parent to be the Petitioner and the other parent sign a consent form (included in this packet). The fact that the father's name is not shown on the child's birth certificate does not change the requirement that the father must be notified. Notice to the child's father is still needed even if the father's name is not shown on the child's original birth certificate.

Procedure when a parent(s) whereabouts are unknown.

The child must reside in New Mexico and the petition can be filed by one parent or the guardian on behalf of the child. **BOTH LEGAL PARENTS MUST BE NOTIFIED OF THE PETITION FOR CHANGE OF NAME.** It may be possible for a single parent petitioning to change a child's name to establish to the satisfaction of the Judge assigned to the case that the other parent's address is unknown and cannot be located, that notice is therefore impossible, and have the Judge determine that the change of name order should be signed. Whether this can be done in any individual case depends on what PROOF of attempts to locate the missing parent is shown at the time of the hearing, and whether the Judge determines that the proof shown is sufficient under the law. If only one of the parents is petitioning to change the child's name, then you must serve the other parent(s) with the Notice to Change name and file the completed Return of Service with the Court Clerk before the hearing date. The Self Help Center has information about serving the other party. If the parent(s) cannot be located for service than you must motion the Court for Service by Publication and publish notice in the city of the other parties last known address. You must prove to the Court that you have attempted to locate the other parent(s). The Judge will have to determine whether you have proved that you complied with all the requirements of the statute, including the one that says: "the required notice shall include notice to both legal parents."

COMPLETING AND FILING THE PETITION AND NOTICE OF PETITION

1. Complete the Petition for Name Change and Notice of Petition for Name Change forms and make two (2) copies of each. The clerk can make copies for a charge of \$0.35 per page, cash, debit/credit card, cashier's check, or money order only. No checks accepted.
2. Prepare the caption on the *Petition to Change Name*. The caption is the upper third of the page. The caption will be the same on all of the documents that you prepare.
3. Leave blank the line that has "No." The Court Clerk will assign you a file number and stamp the number on the first set of papers. You will write this number on the other captions.
4. In the second space on the caption that states "In the Matter of the Petition of _____ for Change of Name of _____" write your name in the first space and the name(s) of the child that you want to change in the second space. In this space for the child's name, you should write his or her name that you are seeking to change. This name is generally the name on the birth certificate or social security card. ***If you have questions about the names of the child, you should seek the advice of an attorney.***
5. In Paragraph 1 of the *Petition*, write your name and the name of the child that you want to change just as you wrote it above.
6. In Paragraph 4 of the *Petition*, "Current Name" refers to the name that you want to change and "Proposed Name" refers to the new legal name that you would like the child to have. Current Name and Proposed Name will be mentioned several times in these documents and should always be the same as listed on the *Petition*.

7. Complete the *Notice of Petition for Name Change*. The Judge's name goes in the space following “This Petition will be heard before the Honorable_____”. If you have this form ready when you file the *Petition*, the Clerk will probably use a stamp to put the Judge's name on this blank.
8. Leave the spaces blank for the date and time of the hearing. The Judge's assistant will fill these blanks scheduling the hearing.
9. File the Petition in the Clerk's Office, Room 119, first floor, of the Bernalillo County Courthouse at 400 Lomas Blvd. NW, between the hours of 8:00 A.M. and 4:00 P.M.*, Monday - Friday. Submit the filing fee of \$132.00 (the Court does not accept personal checks) cash, credit/debit card, money order, or cashier’s check, payable to Clerk of the District Court. A Judge is randomly assigned to your case.

*Hours subject to change. Call 505-841-7438 to confirm hours.

SCHEDULING THE HEARING:

1. Once a Judge is assigned to your case, take your forms to that Judge’s office and the assistant will schedule a date and time for your hearing.
2. After a hearing date has been scheduled, you must return to the Clerk's Office (room 119) to file the *Notice of Petition to Change Name*.
3. This *Notice* must be filed with the court. The clerk will file the original and return the endorsed copies to you.

SERVING THE OTHER PARENT

1. If the other parent has not signed the *Petition* and has not completed the *Consent to Change Name*, you must arrange for the *Summons* and a copy of the *Petition to Change Name* Change to be served upon the other parent.
2. If you and the other parent are in agreement, he or she can sign the *Consent to Change Name* at any time prior to the hearing.
3. The Center for Self Help and Dispute Resolution can provide you with Service documents and information.

PREPARING FINAL ORDER, ORDER TO SEAL, AND HEARING

1. Complete the *Final Order Changing Name* and the *Order Sealing Final Order to Change Name* and make two copies of each.

2. Bring these forms to your scheduled hearing along with the *Consent to Change Name* that has been completed by the other parent. Be on time for the scheduled hearing. Check in with the judge's assistant as soon as you arrive. Failure to attend the hearing may result in your case being dismissed by the judge.

FILING YOUR NAME CHANGE ORDER

1. If the judge signs the *Final Order Changing Name* and the *Order Sealing Final Order to Change Name*, you must return to the Clerk's Office to have both Orders filed.
2. The Orders are NOT EFFECTIVE UNTIL FILED BY THE CLERK. DO NOT TAKE THE ORIGINAL ORDERS OUT OF THE COURTHOUSE.

NOTE: You may want several certified copies of the *Final Order to Change Name*. Ask the clerk to certify as many copies as you require. The cost is \$1.50 per certification: cash, credit/debit card, money order, or cashier's check only. Copies cost \$0.35 per page.

FILING ORDER WITH COUNTY CLERK

The last part of §40-8-1, NMSA 1978, the change of name statute, requires you take a certified copy of the *Final Order* to the County Clerk's office for filing. The fee for filing a certified copy of the *Final Order* is \$25.00.

OTHER INFORMATION

1. If you want to have other documents, such as a driver's license, social security records, credit cards, school records, etc., changed to show your new name, you should contact the agency or organization for requirements to update their records. Some of these agencies will want a certified copy of the *Final Order*; others will accept a photocopy of the *Final Order*.
2. If the child was born in New Mexico and you want to have the birth certificate changed to show the new name, send one of the certified copies of the *Final Order* to the Office of Vital Statistics in Santa Fe. This packet includes a sample letter to Vital Statistics in Santa Fe requesting a revised birth certificate. The cost for having the state's Vital Statistics records changed and obtaining a copy is \$20.00. Processing the name change and sending a revised birth certificate sometimes takes several weeks, so plan ahead if you are going to need a new birth certificate issued.

Text of Statute for Change of Name
§§40-8-1 and 40-8-3, NMSA 1978 as amended

§ 40-8-1. Change of name; petition and order.

A. Any resident of this state fourteen years of age or older may, upon petition to the district court of the district in which the petitioner resides, if no sufficient cause is shown to the contrary, have the petitioner's name changed or established by order of the court. The legal parents or legal guardians of any resident of this state under the age of fourteen years may, upon petition to the district court of the district in which the petitioner resides, if no sufficient cause is shown to the contrary, have the name of the petitioner's child or ward changed or established by order of the court. When residents under the age of fourteen years petition the district court for a name change, notice shall be given to all legal parents or legal guardians. The order shall be entered at length upon the record of the court, and a copy of the order, duly certified, shall be filed in the office of the county clerk of the county in which the person resides. The county clerk shall record the same in a record book to be kept by the county clerk for that purpose.

B. If the court finds that notice to one or more legal parents or legal guardians of a child who is under fourteen years of age will jeopardize the child's or the applicant's personal safety, the court shall not require notice. The court shall order all records regarding the petition to be sealed. The records shall only be opened by court order based upon a showing of good cause or at the applicant's request.

Repealed: NM ST § 40-8-2

SECTION 2. REPEAL.—Section 40-8-2 NMSA 1978 (being Laws 1889, Chapter 3, Section 2, as amended) is repealed. Approved March 24, 2023. Current through Chapters 3, 9, and 25 of the 2023 First Regular Session of the 56th Legislature (2023). The First Regular Session convened January 12, 2023 and adjourned March 18, 2023. The General Effective date is June 16, 2023.

§ 40-8-3. Hearing at regular term in county of petitioner's residence

That the hearing and determination of all proceedings instituted under the provisions of this chapter, and the final order of the court therein, shall be had and made at some regular term of the district court sitting within and for the county wherein said petitioner resides.

Credits

L. 1889, Ch. 3, § 3.

Formerly C.L. 1897, § 2912; Code 1915, § 3809; C.S. 1929, § 92-103; 1941 Comp., § 25-503; 1953 Comp., § 22-5-3.

NMSA 1978, § 40-8-3, NM ST § 40-8-3

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