



THE RIGHTS OF TRANSGENDER PEOPLE IN WASHINGTON STATE:

Name Changes and ID

This guide is designed to help transgender individuals understand their legal rights in Washington State. *It is not meant to provide legal advice.*

The current legal system assumes individuals identify as one gender, either male or female. While this guide provides an understanding of the current legal system, the ACLU recognizes that many people do not identify as male or female. A person may identify as or express a specific gender, both genders, or neither gender.

The law in this area changes frequently. This guide is current as of January 2024.

NAME & GENDER CHANGES ON IDENTITY DOCUMENTS

Can a person change their name to reflect their gender identity?

Yes. In Washington, any person over the age of 18 can choose and use any name they wish, if the purpose of the name change is not to commit fraud. There are two ways to change your name in Washington.

Through what is called a “common law name change,” a person may simply change their name by using a new name consistently and exclusively for all purposes.^[1] This method is free and easy. But because many government institutions require documentation proving that a valid name change has been made, simply using a new name may not create the kind of solid paper trail needed to change important identifying documents and transact some important business matters.

To make a formal name change that can be used for all purposes, a person should, if possible, change their name by court order. This requires the requesting individual to file a Petition for Name Change and ask a judge to sign an Order for Name Change.^[2] The process is uniform across Washington counties. Counties may charge different fee amounts for a name change, and individuals must also pay a recording fee to record the name change with the county auditor. Low-income individuals, however, may qualify for a fee waiver for all fees, including the filing and recording fees.^[3]

To start a name change, you must contact the District Court in the county where you live to obtain the forms for a name change. After you file the Petition for Name Change, the court clerk will schedule a date when you can appear before a judge or a court commissioner. Judges should allow a name change so long as they are convinced that the purpose of the change is not to evade debts or the authorities. Once the name change is approved by the court, the file must be sealed to protect the person’s privacy.

The name change file may only be unsealed for good cause, or if requested by the person granted the name change or their guardian or representative.^[4]

Can a person get their name and gender marker changed on their Washington birth certificate?

Yes. To change the name on a birth certificate issued in Washington State,^[5] a person must submit the following to the Washington State Department of Health (DOH):

- A photocopy or certified copy of the current birth certificate (certified copies will not be returned);
- A certified copy of a name change court order (certified copy will not be returned);
- A completed Court Order Legal Name Change Request Form (available for download on the Washington DOH website); and
- A letter from the requestor stating the following information, as listed on the current birth certificate: name, date of birth, place of birth, names of parents, and contact information.^[6]

A DOH regulation outlines the steps required to change the gender marker on a birth certificate.^[7] The regulation also created a third gender designation – “X” – which is not exclusively male or female.^[8] To change the gender marker on a birth certificate issued in Washington state, an adult must fill out the Request to Change Sex Designation on a Birth Certificate for an Adult form. The information requested includes the full name listed on the birth certificate, the parents’ full names listed on the birth certificate, and the sex designation requested. The application must be signed and notarized.^[9]

- For a minor to change the gender marker on their Washington state birth certificate, a parent or guardian must submit the application. In addition to the application, the parent or legal guardian must also submit a signed statement by the minor’s licensed health care provider stating that the provider has determined that the change is consistent with the minor’s identity. Parental authorization is also required for a minor to change their name on their birth certificate.

A person can request name and gender marker changes at the same time (a certified copy of a court-ordered name change is required in these cases). To obtain certified copies of the amended birth certificate, a person must also submit a personal check or money order of \$25 for each certified copy, and a completed Birth Certificate Order Form.

If the DOH denies the request to change gender designation, its decision can be appealed to a court.^[10]

Can a person change their name and gender marker with the Social Security Administration (SSA)?

Yes. To change their name, a person needs to provide proof of a court-ordered name change, U.S. citizenship, and identity. In 2022, the SSA issued guidance for their employees to accept documents that contain X gender markers for updates to records or for new or replacement SSA card applications.

Social Security cards do not include a gender marker, but a person's Social Security record with the SSA does include a gender marker. To change the gender marker in your Social Security record, you request an update with the Social Security Administration and provide proof of your identity.^[11] Currently, the SSA can change gender markers to either male or female; it is exploring ways to provide an "X" or unspecified sex identification option in the future.^[12]

Is it advisable to change one's name and gender with the SSA?

Yes. Ensuring that the SSA's record of one's gender is consistent with the gender marker on other identity documents will help avoid problems.

The risk of problems caused by not changing SSA records is particularly high in the context of employment. In the past, the SSA sometimes contacted an employer when it noticed that the personal information it had about a Social Security number (usually name, but sometimes gender) in its Social Security Number Verification System (SSNVS) did not match the information being reported by the employer. These so-called "No-Match" letters often ended up "outing" transgender employees at work. Though the SSA has ended its prior policy of allowing employers to match the gender markers of employees with the SSNVS, some systems used by state government agencies still match gender markers against SSA records.

Additionally, because it is possible that the federal government will develop a federal identification card system, that may also mean that a person's SSA gender marker will be considered the last word on the person's gender.

Can a person change their name and gender on their U.S. passport?

Yes. To change the name and gender marker on one's passport, a person must submit the required form, appropriate fees, and other required documents, including their most recent passport.^[13] A person may self-select their gender, including gender marker X, on their passport application.^[14] According to the U.S. Department of State (DOS), the evidence provided for the passport application does not need to match the gender selected on the application. A person can also request an X designation on a passport card, or when requesting expedited or emergency service. Beginning in late 2023, a person may select X as a marker on Consular Reports of Birth Abroad.^[15]

Can a person change their name and gender marker on their driver license or state-issued identification card?

Yes. To change the name on a Washington driver license or identification card, a person must update their name with the SSA and schedule an in-person appointment to visit the driver license office. The person must also pay a fee and provide proof of identity. For a list of accepted documents for proof of identity, visit the Washington State Department of Licensing (DOL) website.^[16] The same procedure and fees (\$20 either in person or online) apply to enhanced driver licenses and enhanced ID cards.^[17]

To change the gender marker on a Washington driver license or identification card, a person must mail a written request to the DOL or visit a driver licensing office location.^[18] The DOL offers X gender markers

on driver licenses.

- **If submitting the request via mail:**
 - Complete a Change of Gender Designation Request form (available for download on the DOL website):
 - Fill out the “Applicant” section of the form.
 - Mail all the documents to the address on the form.
 - Upon receipt of these documents, the DOL will send the individual a letter authorizing that person to get a new license or identification card online or at a driver licensing office. While there is no fee for changing one’s gender designation in the DOL’s system, the fee for reprinting a driver license after changing one’s gender marker is \$20.

- **If submitting the request in person at a driver licensing office, bring:**
 - A completed Change of Gender Designation Request form;
 - The current Washington State driver license/ID card, enhanced driver license or enhanced ID card, or instruction permit; and
 - Payment for the \$20 fee (if requesting a reprinted license).^{[19](#)}

Does changing the gender marker on one’s birth certificate legally change one’s gender?

It is unclear because courts have not expressly addressed this issue. Although changing the gender marker on one’s birth certificate should put to rest once and for all the question of one’s legal gender, courts outside of Washington have, in certain circumstances, ignored the corrected birth certificate. To deal with this potential problem, we recommend obtaining a court order declaring a legal change of gender if possible. (To save time and money, it can be very useful to do this when petitioning for a court-ordered name change.) The advantage of a court order is that it is generally entitled to greater respect than a birth certificate or other identity document by courts and agencies in other states.

ACLU OF WASHINGTON

The American Civil Liberties Union of Washington is a nonprofit, nonpartisan membership organization devoted to protecting the civil liberties of all people in Washington and extending rights to groups that historically have been denied equal treatment.

As one of the ACLU’s more than 50 local affiliates around the U.S., the ACLU of Washington works for equal rights and legal protections against discrimination and harassment for the LGBTQIA2S+ community through litigation and legal advocacy, lobbying at the state legislature and local governments, and public education. The ACLU of Washington does not address problems that arise outside of the state of Washington.

The ACLU of Washington offers information in response to specific inquiries or concerns and suggestions on how to assert individual rights and engage in advocacy; provides referrals to other organizations better able to offer such information or advice in specific situations; and sometimes undertakes impact litigation (i.e., pursues lawsuits that will defend or extend fundamental civil liberties and civil rights for a large number of people).

If you feel you have been the victim of discrimination based on your gender expression or identity, please consider contacting the ACLU of Washington in one of the following ways:

- **Online:** Submit a request for help online by visiting www.aclu-wa.org/help.
- **By phone:** Call the ACLU of Washington's Information and Referral Program at **206.624.2180** (open Tuesday through Thursday, 10:00 a.m. – 1:00 p.m.).
- **By mail:** Write to American Civil Liberties Union of Washington, P.O. Box 2728, Seattle, WA 98111 and provide the following information: your name, mailing address, telephone number and e-mail address (if available); a brief description of the problem or issue about which you are contacting the ACLU of Washington, including any relevant dates and the names of any individuals or organizations involved; a description or copy of any relevant documentation; whether you are presently represented by an attorney in the matter you are writing about; whether you have taken any steps to resolve the matter you are writing about and, if so, a description of these steps; and a description of what you would like the ACLU of Washington to do concerning this matter.

ADDITIONAL RESOURCES

For additional resources and information about transgender rights, please see:

- Ingersoll Gender Center (www.ingersollgendercenter.org)
- Gender Justice League (www.genderjusticeleague.org)
- QLaw Foundation (<https://www qlawfoundation.org>)
- Lavender Rights Project (<https://www.lavenderrightsproject.org>)
- Washington State Human Rights Commission (www.hum.wa.gov)
- Office of the Corrections Ombuds (OCO) (<https://oco.wa.gov/>)
- King County Ombuds Office (www.kingcounty.gov/independent/ombuds.aspx)

ENDNOTES

[1] Northwest Justice Project, *How to get a name change in Washington State*, <https://www.washingtonlawhelp.org/resource/name-change>.

[2] Washington Courts, *Name Changes*, <https://www.courts.wa.gov/forms/?fa=forms.static&staticID=13>.

[3] Washington State Substitute House Bill 1961, 67th Legislature, 2022 Regular Session (effective July 1, 2022), <https://lawfilesexternal.wa.gov/biennium/2021-22/Pdf/Bills/House%20Passed%20Legislature/1961-S.PL.pdf?q=20220415111927>. See also Revised Code of Washington (RCW) 4.24.130 and 36.18.010.

[4] Washington State Substitute Senate Bill 5028, 68th Legislature, 2023 Regular Session (effective July 23, 2023), <https://lawfilesexternal.wa.gov/biennium/2023-24/Pdf/Bills/Session%20Laws/Senate/5028-S.SL.pdf?q=20230623150021>. See also RCW 4.24.130.

[5] Please note that other states may not allow changes to birth certificates to reflect a nonbinary gender. See, e.g., *Oklahoma governor signs law banning nonbinary birth certificates*, <https://www.cnn.com/2022/04/26/politics/oklahoma-nonbinary-gender-marker-birth-certificate/index.html>.

[6] Washington State Department of Health, *Court-Ordered Name Change*, <https://doh.wa.gov/licenses-permits-and-certificates/vital-records/court-ordered-name-change>.

[7] Washington State Department of Health, *Sex Designation Change on a Birth Certificate*, <https://doh.wa.gov/licenses-permits-and-certificates/vital-records/sex-designation-change-birth-certificate>.

[8] See Washington Administrative Code (WAC) 246-490-075, <https://app.leg.wa.gov/WAC/default.aspx?cite=246-490-075>.

[9] For more information about name and gender marker changes to birth certificates, see Washington State Department of Health, *Sex Designation Change on a Birth Certificate*, <https://doh.wa.gov/licenses-permits-and-certificates/vital-records/sex-designation-change-birth-certificate>.

[10] See also RCW 34.05.542(3) (time for filing petition for review of agency action).

[11] Social Security Administration, *How do I change the sex identification on my Social Security record?*, <https://faq.ssa.gov/en-us/Topic/article/KA-01453>. Policies in this area change frequently, so we recommend checking the SSA website for the most current information.

[12] For more information, see Social Security Administration Program Operations Manual System (POMS), *RM 10212.200 Changing NUMIDENT Data for Reasons Other than Name Change*, <https://secure.ssa.gov/poms.nsf/lnx/0110212200>.

[13] For more information, see U.S. Department of State, *Change or Correct a Passport*, <https://travel.state.gov/content/travel/en/passports/have-passport/change-correct.html>.

[14] U.S. Department of State Press Release, *X Gender Marker Available on U.S. Passports Starting April 11* (Mar. 31, 2022), <https://www.state.gov/x-gender-marker-available-on-u-s-passports-starting-april-11/>. The change was made after a court ruling in *ZZYIM v. Pompeo*, 958 F.3d 1014 (10th Cir. 2020), challenging the rules requiring people to select M or F gender markers. See also Lambda Legal news, *Lambda Legal Client Dana Zzyym Receives First U.S. 'X' Passport* (Oct. 27, 2021), https://www.lambdalegal.org/news/co_20211027_dana-zzyym-receives-first-us-passport-with-x-gender-marker.

[15] United States Department of State, *Selecting your Gender Marker*, <https://travel.state.gov/content/travel/en/passports/need-passport/selecting-your-gender-marker.html>.

[16] Washington State Department of Licensing, *Change your name or address on your driver license*, <https://www.dol.wa.gov/driver-licenses-and-permits/update-driver-license-information/change-your-name-or-address-your-driver-license>.

[17] Washington State Department of Licensing, *Change name or address on Enhanced Driver License (EDL)*, <https://www.dol.wa.gov/driver-licenses-and-permits/enhanced-driver-license-edl/change-name-or-address-enhanced-driver-license-edl#changeyournameonedl>.

[18] Washington State Department of Licensing, *Change your gender designation*, <https://www.dol.wa.gov/driver-licenses-and-permits/update-driver-license-information/change-your-gender-designation>.

[19] *Id.* Please note that fee amounts and policies may change; we recommend contacting the Washington State Department of Licensing for the most recent information.