

CHANGE OF NAME: GENERAL INSTRUCTIONS

NOTE: Under special circumstances if you show the Court that publication of your name change will jeopardize your personal safety, the court shall not require publication and the court shall order all records regarding the application to be sealed. The records shall only be opened by the court order based upon a showing of good cause or at your request. NMSA 1978, §40-8-2(B) (2001). This packet does not contain forms for that situation.

I. BACKGROUND AND GENERAL INFORMATION

A. If at all possible, you should have an attorney for your case. The legal system is quite complicated, and if you are proceeding pro se (acting as your own lawyer), you must do everything just as a lawyer would. This packet gives basic information and instructions on preparing and filing a PETITION and the other documents needed to complete the change of name process.

B. We provide sample forms for you to use in preparing your own documents. They include the following forms:

PETITION TO CHANGE NAME
NOTICE OF PETITION TO CHANGE NAME
FINAL ORDER CHANGING NAME
LETTER TO VITAL STATISTICS

You will have to read every word carefully and must change the forms which are provided to fit your own situation.

C. The packets contain the basic forms that are needed to process the case. Sometimes other documents are needed to meet special circumstances. We cannot anticipate such needs and do not include any but the basic forms.

D. Our forms have blanks, but if you are re-typing **do not show the blanks**. Bracketed words appear right before each blank to show you what kind of information goes in that blank. If you are re-typing, do not show the bracketed words. There are some places where there is a choice (for example “his/her”) shown on the forms. The instructions for the forms usually say to “circle the appropriate word.” If you are re-typing the forms (which is the best way to do your papers) just select the correct choice for yourself and type in the right word in that place.

E. You must anticipate the following costs:

Court Costs
Filing Fee (\$117.00)
Certified Copies (\$ 1.50 each)
Publication Expense
Filing Fee with County Clerk
Filing Fee for Change of Birth Certificate
Fee for Obtaining New Birth Certificate

II. JURISDICTION

The statutes that give the court jurisdiction (authority to do something) in Change of Name procedures are Sections 40-8-1 through 40-8-3 NMSA 1978. (A copy of the statutes is included with these materials.) The District Court of New Mexico has jurisdiction to order a name change for you if you are resident of this state. The PETITION must be filed in the **county** in which you reside. There are special requirements if the name change is for someone under fourteen years of age, and this packet does not contain forms for that situation.

III. INFORMATION ABOUT PREPARING COURT DOCUMENTS

A. GENERAL INFORMATION FOR ALL COURT DOCUMENTS

Certain information (the heading and the signature block) are used on **every** document. The instructions are very detailed. To complete the remaining documents, you will use the same heading and signature as the PETITION. The forms in this packet are formatted correctly, and if you need other documents for your particular situation, use the same format as these documents. For example, the special requirements for court documents in McKinley County are the following:

1. Use good quality white paper that is 8 ½" x 11".
2. Leave top and left margins of at least 1 ½". Leave a bottom margin of 1" and right margin of at least ½".
3. Type or print only. Typewritten text must be 10 or 12 pitch and letter quality.
4. Double space the main body. Single space headings and the case name.
5. Follow the signatures by your typed or printed name; capacity (like "Petitioner pro se"); address; and telephone number.
6. You must include your court district and county in the heading; for example, if you live in McKinley :

Eleventh Judicial District Court
County of McKinley
State of New Mexico

B. FILLING OUT EACH DOCUMENT

1. The PETITION TO CHANGE NAME.

The PETITION To Change Name is the first document filed in a case. It is the document which tells the Judge what you are asking the Court to do for you. Before the Court can act on your request, you must give certain facts so that the Judge can determine that what you are asking is something this

Court has the power to do and that it is legal for the Judge to do it. The PETITION must be signed by the petitioner. In addition to your signature, the court must have on file your address and phone number. This information is provided in the area following your signature. Now that you have prepared the PETITION, the hardest part has been done. Other documents needed will be done in the same way as you did the PETITION.

2. The NOTICE OF PETITION TO CHANGE NAME The next document that has to be done to process the PETITION to Change Name is the NOTICE of Petition to Change Name. The NOTICE should be prepared and taken with you at the same time you take the PETITION to Change Name to the Court Clerk's office for filing. Do not fill in the blanks assigning a Judge and court date because the Court Clerk will fill in those sections.

3. The FINAL ORDER CHANGING NAME

Fill in this document, but leave the blank for the Judge's signature empty.

IV. FILING THE PETITION

A. GETTING COPIES MADE

You will need two copies of all documents in addition to the original. The Court Clerk's office can make copies for you (for 35 cents per page), but it may be less expensive to have the copies made before you come to the Courthouse. If you bring your own copies, the Court Clerk will stamp (endorse) the copies with the court stamps to show that the original has been filed in the Court file. There is no extra charge for stamping the copies if you get them stamped when the original is filed and ask for "endorsed" copies. One of the copies is for your file.

B. PAYING THE FILING FEE AND FILING THE PETITION

Take the original PETITION and NOTICE and COPIES to the District Court Clerk's office, 207 West Hill Ave., Rm 200, Gallup, NM. The Court Clerk's office is open from 8 to 12 and 1 to 5 weekdays. You will be required to pay the \$117.00 (cash or money order only; **no personal checks will be accepted**) filing fee at this time. The Clerk will file the original PETITION and stamp and return the COPIES of the PETITION to you and the original NOTICE will be forwarded to the Judges Trial Court Administrative Assistant for a hearing date. When it is returned from the Judges office (probably **not** the same day) the original and COPIES will get filed stamped and the endorsed copies will be returned to you.

V. PUBLICATION

New Mexico law requires that the NOTICE of Petition to Change Name be published. An endorsed copy of this NOTICE must be submitted to a newspaper published in the County where you reside (McKinley County).

The NOTICE will then be published **once a week for two consecutive weeks**. After the two weeks

have passed, an “Affidavit of Publication” will be mailed to you by the newspaper. When you receive this “Affidavit of Publication,” you should make a copy of it for your file and take the original to the Court Clerk’s office for filing. If you do not have proof in the Court’s file that the publication of your NOTICE has been completed, the Judge will NOT sign the Order when you have your hearing at the scheduled time.

VI. HEARING AND SIGNING THE FINAL ORDER

The FINAL ORDER Changing Name document is the Order that grants you the change of name. This document must be prepared and submitted to the Court Clerk’s office. You will need the original plus 3 copies of the FINAL ORDER. If you do not have the copies made before you go to the hearing, then you must have the Court Clerk make them for you when you file the original FINAL ORDER. The Court Clerk’s office charges 35 cents per page for making the copies. A hearing time is set because the statute requires it, but an actual courtroom hearing will probably not be needed. Sometimes the Judge’s Trial Court Administrative Assistant might have you wait in the reception area or the hallway until the hearing time has passed. Or the Judge may want to hold a hearing. It is possible for a hearing to be in the Judge’s chambers (office) or in the courtroom. The Judge may have questions to ask you, such as why you are asking to have your name changed. If no one appears at the hearing to object to the change of name you have requested, and if all the paperwork has been done correctly, the Judge will sign your FINAL ORDER. After the Judge signs the original FINAL ORDER, it will be filed in the Court Clerk’s office.

VII. GETTING CERTIFIED COPIES OF THE FINAL ORDER

After you receive a copy of the FINAL ORDER, return to the Court Clerk’s office and ask for 3 certified copies. The charge for the certified copy is \$1.50 for each certified copy, and you will need **certified** copies for the next steps.

VIII. FINISHING PAPERWORK FOR OTHER AGENCIES

A. MCKINLEY COUNTY CLERK

The last part of §40-8-1, NMSA 1978, the change of name statute, **REQUIRES** that you take a certified copy of the FINAL ORDER to the McKinley County Clerk’s office for filing. That office is located in the same building as the Court Clerk’s office. It is located on the first floor of the new Courthouse. There is a fee for filing the FINAL ORDER with the County Clerk.

B. BIRTH CERTIFICATE

If you were born in New Mexico and want to have your birth certificate changed to show the new name, then send one of the certified copies of the FINAL ORDER to the Vital Statistics office of the State Health Department. This packet includes a form letter for sending this certified copy to the Vital Statistics office. 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.

C. DRIVER'S LICENSE, ETC.

If you want to have other documents, such as your driver's license, social security records, credit cards, or school records changed to show your new name, you should ask the agency or organization for the forms they use to change their records. Some of these agencies will want to have a **certified** copy of the FINAL ORDER for them to keep in their files. Others will accept a photocopy of the FINAL ORDER that you have for your file copy.

IX. KEEPING YOUR FILES CURRENT

You should always keep at least one certified copy of the FINAL ORDER in your own files. If you find that you need more certified copies of the FINAL ORDER, you can go back to the Court Clerk at any time to get additional certified copies.

STATE OF NEW MEXICO
COUNTY OF MCKINLEY
11TH JUDICIAL DISTRICT

IN THE MATTER OF THE PETITION OF
_____ [name]
FOR CHANGE OF NAME

Cause No. D-1113-CV _____

PETITION TO CHANGE NAME

COMES NOW the Petitioner, _____ [name] , and pursuant
to NMSA 1978, §40-8-1 (1989), states that

1. Petitioner is a resident of _____ [city] , McKinley County, New Mexico.

2. Petitioner is over the age of fourteen (14) years.

3. Petitioner desires to change his/her name from _____ [name]
to _____ [new name] .

4. There is no sufficient cause to the contrary why his/her name should not be changed to and
established as _____ [new name] .

WHEREFORE, Petitioner prays that

1. The Court set a hearing in this matter; and

2. Following the time set for the hearing, the Court enter its Order changing and establishing
Petitioner's name as _____ [new name] .

Respectfully submitted,

Signature:

Petitioner, pro se

Print Name: _____

Mailing Address _____

Telephone _____

STATE OF NEW MEXICO
COUNTY OF MCKINLEY
11TH JUDICIAL DISTRICT

IN THE MATTER OF THE PETITION OF

Cause No. D-1113-CV-_____

FOR CHANGE OF NAME

NOTICE OF PETITION TO CHANGE NAME

NOTICE IS HEREBY GIVEN that _____, a resident of the
City of _____, County of McKinley, State of New Mexico, and over the age of
fourteen years, has filed a Petition to Change Name in the District Court, McKinley County, New
Mexico, wherein he/she seeks to change his/her name from _____ to
_____, and that this Petition will be heard before the
Honorable _____, District Judge, on the _____ day of _____
20____, at the hour of _____ a.m./p.m., at the McKinley County Courthouse, 207 W. Hill
Ave., Rm 200, Gallup, New Mexico.

Francisca P. Palochak
Clerk of the District Court

By _____
Deputy Clerk

STATE OF NEW MEXICO
COUNTY OF MCKINLEY
11TH JUDICIAL DISTRICT

IN THE MATTER OF THE PETITION OF

_____ Cause No. D-1113-CV-_____
FOR CHANGE OF NAME

FINAL ORDER CHANGING NAME

THIS MATTER having come before the Court on the Petition of _____ to change his/her name to _____, and the Court having considered said Petition and being otherwise advised in the premises, finds as follows:

1. This Court has jurisdiction over the subject matter and the party hereto.
2. Petitioner, _____, who is over the age of fourteen (14) years, is a resident of the City of _____, County of McKinley, State of New Mexico.
3. Petitioner, _____, desires to change his/her name from _____ to _____.
4. It appears that notice of said Petition has been published in the manner and for the time provided by law.
5. No person has objected to the change of name as requested herein.
6. The Court finds no reason why the Petition should not be granted.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED as follows:

- A. The Court adopts paragraphs numbered 1 through 6 above as findings of this Court;

B. Said Petition should be, and the same is hereby, granted;

C. Petitioner's name of _____ is hereby changed to

_____.

DISTRICT JUDGE

(Date)

Registrar
New Mexico Health Department
Vital Records
P. O. Box 968
Santa Fe, NM 87503

Dear Sir/Madam:

I have recently changed my name and would like to amend my birth certificate. My former name was and I was born in _____ County on the day of _____, 20____ . I have enclosed a certified copy of the Order changing my name and a check or money order for \$20.00. Please send me a copy of my amended birth certificate.

Sincerely,

(Your new name)
(Address)
(City, State and Zip Code)
ENCLOSURES

ARTICLE 8

CHANGE OF NAME

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

40-8-2. Notice of petition; publication.

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

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

Any resident of this state over the age of fourteen years may, upon petition to the district court of the district in which the petitioner resides and upon filing the notice required with proof of publication, if no sufficient cause is shown to the contrary, have his name changed or established by order of the court. The parent or guardian 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 and upon filing the notice required with proof of publication, if no sufficient cause is shown to the contrary, have the name of his 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, the required notice shall include notice

to both legal parents. 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 him for that purpose.

History: Laws 1889, ch. 3, § 1; C.L. 1897, § 2910; Code 1915, § 3807; C.S. 1929, § 92-101; Laws 1937, ch. 162, § 1; 1941 Comp., § 25-501; 1953 Comp., § 22-5-1; Laws 1979, ch. 14, § 1; 1989, ch. 161, § 1.

40-8-2. [Notice of petition; publication.]

A. Before making application to the court for changing or establishing a name as above provided in Section 40-8-1 NMSA 1978, the applicant must cause a notice thereof, stating the nature of the application, the time and place, when and where the application will be made, to be published in the county where such application is to be made and where the applicant resides; the notice to be published at least once each week for two consecutive weeks in some newspaper printed in the county. If there be no newspaper published in the county where the applicant resides, then the notice shall be published in a newspaper printed in a county nearest to the residence of the person and having a circulation in the county where the person resides.

B. If the court finds that publication of an applicant's name change will jeopardize the applicant's personal safety, the court shall not require publication. The court shall order all records regarding the application to be sealed. The records shall only be opened by the court order based upon a showing of good cause or at the applicant's request.

History: Laws 1889, ch. 3, § 2; C.L. 1897, § 2911; Code 1915, § 3808; C.S. 1929, § 92-102; 1941 Comp., § 25-502; 1953 Comp., § 22-5-2; Laws 2001, ch. 125, § 1.

Cross references. - For legal newspapers and publication of notice, see 14-11-2 NMSA 1978.

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 [40-8-1 to 40-8-3 NMSA 1978], 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.

History: Laws 1889, ch. 3, § 3; C.L. 1897, § 2912; Code 1915, § 3809; C.S. 1929, § 92-103; 1941 Comp., § 25-503; 1953 Comp., § 22-5-3.