

# SELF-HELP CENTER

## How to Correct a Marriage Record

In order properly to correct a marriage record, an order of the court must be obtained. The following are the steps that must be taken to obtain such an order.

### Filing with the County Clerk

1) Commence a **Special Proceeding** (Notice of Petition or Order to Show Cause, together with a Verified Petition). **PLEASE NOTE THAT AN ORDER TO SHOW CAUSE IS ONLY APPROPRIATE WHEN THERE IS SOME URGENCY IN OBTAINING THE REQUESTED CHANGE. IF AN ORDER TO SHOW CAUSE IS USED, THE COURT MAY DIRECT SERVICE UPON OTHER PARTIES.**

a) File (i) a Notice of Petition or order to Show Cause and (ii) a verified petition with the **County Clerk's Office** and purchase an **Index Number**. Annexed hereto are forms of notice of petition, order to show cause and petition. Your petition should explain what change, correction or amendment you are seeking and why. The petition must state that no prior application for this relief has been made or, if one has been made, where, when and by whom the application was made, the result, and why a second application should nevertheless be considered by the court.

An Order to Show Cause is a form of order presented to a Justice at the outset, and, if found appropriate by the Justice, signed by him or her and requiring the Municipal Clerk to respond why the requested change should not be made. A notice of petition may be served without approval of a Justice, but minimum advance notice must be given to the Municipal Clerk.

b) Attach to the petition as exhibits, certified copies of the marriage certificate, marriage application and marriage license

c) include as attachments to the petition proof establishing the applicant's identity, e.g., certified copy of birth certificate, baptismal certificate, school records, census records, election records, naturalization papers, certified copy of a court order for change of name.

d) Attach to your moving papers a proposed form of order to be submitted to a Justice for signature to effectuate the change to the marriage record. Annexed hereto is a form of that order.

## Filing with the Court

2) If you are proceeding by order to show cause, present the order to show cause, supporting papers and a Request for Judicial Intervention (RJI) (which requests the assignment of a case to a Justice) to the Supreme & County Court Clerk's Office. If you are proceeding by notice of petition, present the notice of petition, supporting papers and RJI to the Supreme & County Court Clerk's Office.

3) The fee to obtain an Index Number is \$210. The fee to file an RJI is \$95. Only a "poor person" as defined by law may be exempted from the obligation to pay these fees and only if he or she obtains in advance a court order granting this exemption.

4) If you are proceeding by order to show cause, after the order is signed by the Justice you will be required to cause the papers to be formally served, that is delivered to the Municipal Clerk. This must be done by a person over the age of 18 who is not a party to the case. You must then cause a copy of an affidavit or other proof of service to be filed immediately with the County Clerk and you must also present the original affidavit or proof to the court at the appearance scheduled by the Justice, in the order to show cause.

5) If you are proceeding by notice of petition and petition, before you can file your papers with the Supreme & County Court Clerk's Office you must serve them on the Municipal Clerk. This must be done as just described. You must file a copy of proof of service with the County Clerk and you must submit the original proof with your papers when you present them to the Court Clerk's Office.

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