

How to Correct a Marriage Record

[NOTE: Persons without counsel are advised to consult with an attorney. Court staff MAY NOT give legal advice, prepare your papers or act as your attorney.]

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

Commence this Special Proceeding by either filing a (i) Notice of Petition or Order to Show Cause; (ii) a Verified Petition; (iii) an Application for Index Number form; and a (iv) Request for Judicial Intervention (RJI) form with the County Clerk's Office.

[NOTE: 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.]

The fee to obtain an Index Number is \$210 and the fee for an RJI is \$95. If Petitioner obtains a poor person order, these fees may be waived. Only a "poor person" as defined by law may be exempted from the obligation to pay these fees.

Please check with the Supreme Court Clerk's Office where you will be filing the papers to see how many copies of each document you will need to file and serve, making sure to keep a copy for your records.

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 be considered by the court.

Attach to the petition as exhibits, certified copies of the marriage certificate, marriage application and marriage license. You also need to attach to the petition proof establishing the applicant's identity (i.e. certified copy of birth certificate, baptismal certificate, school records, census records, etc.), as well as a proposed order for the Justice to sign to make the desired change to the marriage record.

An order to show cause is a form of an order presented to a Justice at the beginning of a case, and, if the Justice finds it appropriate, he or she will sign it and require the Municipal Clerk to respond as to why the requested change should not be made. A notice of petition may be served without prior approval of a Justice, but minimum advance notice must be given to the Municipal Clerk.

Proceeding by Notice of Petition

After you have filed your papers with the County Clerk's Office and paid the appropriate fees, you must have a copy of the Notice of Petition and Petition (with exhibits) 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 file a copy of the proof of service with the County Clerk's Office. After filing the proof of service, you must submit the original proof of service with your papers to the Supreme Court Clerk's Office.

Proceeding by Order to Show Cause

After you have filed your papers with the County Clerk's Office and paid the appropriate fees, you must submit the Order to Show Cause, Petition (with exhibits), and RJI form to the Supreme Court Clerk's Office. Once the Order to Show Cause is signed, you must have a copy of the order, as well as the supporting papers, served on the Municipal Clerk as described above. You must then file the proof of service immediately with the County Clerk. You will then need to present the original proof of service to the court at the appearance date filled in by the Justice on the order to show cause.