

Self-Help Center

Procedures for *Infant* Name Change Petition

The following procedures are intended to be used as a guideline for completing and filing an Infant Name Change Petition. If you have any questions or concerns regarding the petition, you may want to seek the advice of an attorney.

Please note that the term ***infant*** means any person under the age of eighteen (18) years.

Before you file the Infant Name Change Petition, make sure you have completed the following:

- Name Change Petition. Make sure the petition is completely filled out and that your signature has been notarized by a Notary Public.
- Application for Index Number. The Index Number is the number specifically assigned to the case. The filing fee for this is \$210.00.

Please Note: If you don't have the money to pay the filing fee(s) associated with this petition you can apply to the court to proceed as a poor person. Applying for poor person status requires separate forms to be completed and filed with the court. Please ask the Court Clerk for the appropriate papers or you can get them off our website at <http://www.nycourts.gov/courts/6jd/forms/SRForms/index.shtml>.

- Consent. You should submit this if the following situation applies.
 - Only one parent is submitting the petition to change infant's name. In this case, the other parent must sign this consent before a notary public. Please note that if the other parent will not sign the consent, the instructions below in "Notice of Petition" should be followed.

If the infant in question is between the ages of 14 and 17, it would be beneficial for he/she to sign a consent also. This would let the judge know that everyone is in agreement and assist in granting the name change petition. The infant should sign in front of a notary public.

- Notice of Petition. You must attach this to the front of your petition and serve the notice and petition on: a) both parents, if living and the petitioner is not one of the parents; b) the other parent if he/she won't sign the consent; c) the general guardian or guardian, if there is one. The notice and petition do not need to be served on the other parent if it is alleged in the petition that the other parent's whereabouts are unknown and state what efforts were made to locate that parent. The Court may require you to submit additional proof of your efforts to locate the other parent or direct you to serve notice by publication.

Make sure to file the original and a copy with the Court while keeping a copy for yourself. Leave the date and time blank as that will be determined by the court. Check back with the court a few days after it is filed in order to get the return date and time as the copies that have to be served need that information. If you are having someone personally serve the Notice of Petition and Petition, you must do so at least eight (8) days before the return date. If you are serving by mail, you must

mail the papers at least thirteen (13) days before the return date. You must use registered mail if the parent *resides out of state*, addressed to his/her last known address. On or before the return date, you must file an Affidavit of Service for each person served (see below).

- Affidavit of Service of Notice of Petition and Name Change Petition. Any person who is not a party to the action and is 18 years of age or older may serve the papers. The papers may be personally served or by mail. Remember, if the other parent resides outside New York State you must use **registered** mail.
- Name Change Order. Make sure you have filled out the necessary sections of the order. This order will be signed by the judge assigned to your case.
- Request for Judicial Intervention. This is a form the court uses to assign the case to a judge - no fee necessary. Each county is different as to how many copies need to be filed. Normally you need an original and 2 copies, but please check with the Court Clerk's Office where the petition will be filed. You should keep a copy of the RJI for yourself.
- Proof of date and place of birth. If the infant was born in New York State, attach a certified copy of the birth certificate to the petition. A "certified" copy will have a raised seal (you can feel it) and a signature to show that it is real. If the child was not born in New York State, check with the court where you will file the petition to find out what will be accepted as proof of birth.

Birth certificates can be obtained from the Clerk of the City/Town/Village where the birth occurred. There is a small fee per copy, which is payable by cash, check or money order.

- If the infant has been convicted of a crime (this does not include juvenile delinquency or youthful offender adjudications), you need to provide one or both of the following.
 - A written explanation of the crime. This includes the crime for which the infant was convicted; the sentence, including time served if incarceration was imposed; and whether the infant is currently under supervision and, if so, whether it is with the State Division of Parole or a County Probation Department.
 - Certificate of Incarceration or Certificate of Disposition (if the sentence has been completed). This may not be required by all courts. You may want to check with the clerk in the court where you will file the petition to find out if this is necessary.
- If there are any pending judgments or liens against the infant, or if there are any civil actions/proceedings pending or concerning he/she, you need to provide the following.
 - A written explanation regarding the circumstances of the judgment and/or court proceeding. You may want to check with the clerk in the court where you will file the petition to find out what is necessary.

- You should make a copy of all your documents before filing them with the court. There is a copy machine in the public access law library and in most County Clerk's Offices. Copies are .65¢/page. Check with your County Clerk's Office to see if there is a required minimum copy fee.
- Go to the County Clerk's Office to file the Application for Index Number form with the original petition and pay the \$210.00 fee. If you take your file copy with you, it can be "date stamped" by the County Clerk. Please be aware that depending upon the County where you will file your petition, you may need to file an original **and** a copy of the petition. Please check with the Supreme & County Court Clerk where you are filing your papers to be sure. *(Please note that the County Clerk and the Supreme & County Court Clerk are two different offices.)* The cashier will give you a receipt with the Index Number printed on it. Write the Index Number on your documents. Make sure to keep your receipts as this is proof that you have paid.
- Bring the original papers (petition and order) to either the Supreme Court Clerk's Office or the County Court Clerk's Office in the county where the infant lives for submission to a judge.
- Allow a few days for review of the petition as to consent and compliance with the law.
- If the petition is approved, then you must publish the name change in the designated newspaper within 60 days after the order was signed by the judge. It is your responsibility to take a copy of the entered order (see next arrow paragraph) to the newspaper named in the order so that the notice can be published. It is recommended that you contact the newspaper at once and make arrangements for publication and payment of the publication fee. Credit cards are usually accepted.

In the Order is a Publication Notice showing you the format that should be used when publishing the name change in the newspaper.

Please Note: If you feel that your personal safety, or the safety of your infant could be jeopardized by having the name change printed in the newspaper, then you may ask the court to do without (waive) this requirement based on your explanation of the reasons. Your request and explanation for why publication should not be required must be given to the court in an affidavit sworn to before a notary.

- Go to the County Clerk's Office and ask to see your file. There should be a "file stamp" by the judge's signature. This is known as the entry information. Ask the Clerk to give you a copy of the entered order, but don't get it certified at this time! You will need a certified copy after publication. See the section below entitled "How to Obtain a Certified Copy of the Name Change Order".
- It is your responsibility to submit proof of publication with the County Clerk within 90 days of the date the order was signed by the judge. You will be sent proof of publication from the newspaper. Contact the newspaper to make arrangements for obtaining and filing this proof on a timely basis.

How to Obtain a Certified Copy of the Change of Name Order

- * You must pay a fee and have the order certified by the County Clerk's Office before you

use the order to change the infant's records. If you faxed your publication request to the newspaper, you should have a copy of the order in your possession. If you hand-delivered your copy of the order to the newspaper, then you must make a new copy of the order so that you can get it certified.

- * Go to the County Clerk's Office and ask for a certified copy of the order. The clerk needs to compare the copy to the original order in order to certify the copy. Again, there will be a fee for certifying the copy.

Other Instructions

- Once you have obtained a certified copy of the order you must send it to the Department of Health in the state that issued your original birth certificate and request an amended birth certificate. There is a form letter to the New York State Department of Health on our website where you found the petition and other forms. In New York State there is no fee for an amended birth certificate, *unless* you are requesting more than one copy. After the first copy, each additional copy is \$30.00.
- Remember, it is your responsibility to notify all appropriate agencies that you have legally changed your infant's name. This includes the Social Security Administration, schools, insurance companies, banks, credit card companies, etc.
- If your infant is an alien or permanent resident, you will need to take the extra step of filing Form I-90 *Application to Replace Permanent Resident Card* with U.S. Citizenship and Immigration Services. Once filed, you will be given notification of an in-person appearance appointment, which you must attend. You will need to either bring the original name change order or a certified copy of same with you to your in-person appearance appointment. For more information about the filing fee, instructions and where to file, you can either call their National Customer Service Center at 1-800-375-5283 or visit their website at www.uscis.gov. You can download this form and its instructions if you click on the tab at the top of the website entitled "Immigration Forms".
- If your infant is a naturalized citizen, you will need to take the extra step of filing Form N-565 *Application for Replacement Naturalization/Citizenship Document*, along with a copy of the name change order, with U.S. Citizenship and Immigration Services in order to amend his/her naturalization certificate. For more information about the filing fee, instructions and where to file, you can either call their National Customer Service Center at 1-800-375-5283 or visit their website at www.uscis.gov. You can download this form and its instructions if you click on the tab at the top of the website entitled "Immigration Forms".

(Disclaimer)

The information provided in this handout is designed to help the court user gain a better understanding of court policy and procedures, and for general informational purposes only. The information in this handout should not be relied upon as a substitute for professional legal help. As always, if you have any questions or concerns about filing paper in New York State, we urge you to seek the help of a qualified attorney.