



2024 Transgender Know-Your-Rights

An essential resource with key info on housing, healthcare, employment, and more.



Sponsored by the Ohio State Bar Foundation

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Legal Name Change

To change your name on legal documents, you must first get a legal name change order in your local County Probate Court. The three-step process to get the order is as follows:

1. Application

You must first file a legal name change petition with your county probate court stating that you have been a resident of the county for at least 60 days and the reason for the change. You do not have to state that the reason for the name change is due to your gender identity. You can state that your chosen name is your preferred name and you would like to obtain ID documents in that name. A notarized affidavit and certified copy of your birth certificate must accompany the application. Some courts may have additional filing requirements. You can find out what forms your county needs by calling the office of the Clerk of Courts or by checking the court's website.

The accompanying affidavit should declare that:

- (1) You have been a resident of the county for at least sixty days;
- (2) Application is not made for the purpose of evading any creditors or other obligations;
- (3) You are not a debtor in any currently pending bankruptcy proceeding;
- (4) Application is true, accurate, and complete;
- (5) Any other information the court may require; and
- (6) Verify that you have not been convicted of, pleaded guilty to, or been adjudicated a delinquent child for disqualifying crimes.

The applications can usually be found on the county clerk websites, but you should call the clerk of courts for the probate court in your county to ensure the forms are up to date. The Supreme Court of Ohio also has a standard form that can be used.

The application will require a fee, and the fee varies by location. If the court orders or requires a criminal background check, you may have to pay that fee, too.



Legal Name Change

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2. Publication

In 2021, the law on Ohio name changes was updated. This update made whether or not to publish notice of a name change up to the court's discretion instead of required. While it is unlikely that publication will be required in most counties, if it is, it requires a separate fee. Check with the court on the timeline for publication, but it will likely be a minimum publication one time in a newspaper of local circulation at least 30 days prior to your hearing date. You will also need to bring proof of publication if necessary with you to the hearing if one is scheduled.

3. Hearing

A judge may (but is not required to) hold a hearing on the application for the legal name change. They may ask statutory questions. If the judge asks questions that are medically invasive (surgeries, hormones), you should object (for name change only hearings).

You may also ask to continue the hearing to a later date if you would like to retain an attorney to assist you. Equality Ohio also offers free representation for legal name changes for individuals who are at or below 300% of the federal poverty line. If you need more assistance, you can complete an intake at: www.equalityohio.org/intake



Ohio

Birth Certificate Gender Marker Changes

In 2020 in *Ray v. McCloud*, a federal district court ruled that prohibiting transgender individuals from changing the sex marker on their birth certificates was unconstitutional. However, in December 2021, a probate court denied a request to change the sex marker on a birth certificate. The court found the *Ray* decision didn't address the authority of Ohio probate courts to approve sex marker corrections and that the applicable statute, R.C. 3705.15, didn't allow probate courts to make a sex marker correction unless the sex was selected in error.

Since that case, Ohio probate courts have split on whether they will correct gender markers on Ohio birth certificates. This issue was appealed to the Ohio Supreme Court in a case called *In Re Adelaide*. On November 19, 2024, the Ohio Supreme Court issued a ruling in this case. In the ruling, the Court did not make a determination on the merits of the case, meaning that the Court did not directly decide whether or not Probate courts in Ohio have the authority to correct gender markers for trans people. Currently, some Probate courts are granting gender corrections, but Probate courts in many of Ohio's 88 counties are denying gender marker corrections on Ohio birth certificates. Several other courts have been "staying," or postponing, decisions on gender marker correction cases until the Ohio Supreme Court issued a ruling in the *Adelaide* case. Counties that have been staying cases waiting for the Supreme Court ruling will be likely be making determinations on if they will process these cases in the coming weeks and months.

Unlike legal name changes, which have to be filed in your county of residency, you can choose to file for a birth record correction in the county where you were born, where your birth-giving parent lived when you were born, or where you currently live.

If you are unsure if you have a filing option, you can reach out to the Equality Ohio Legal Clinic.



Ohio

Birth Certificate Gender Marker Changes

A hearing is not required, but a judge might ask for one. Publication is not required, but a judge might require it, which would need to be done 7 days prior to the hearing. If you feel unsafe publishing your name or gender marker change, you can request that publication be waived.

Requirements for gender marker corrections change depending on each county's probate court. Check the website or call the probate court you wish to file your application in to determine what additional requirements are needed.

The judge determines what evidence is required. A self-attestation from the applicant might be deemed sufficient, but medical evidence, such as a doctor's statement or letter, may also be required.

Some courts may require notarized affidavits from friends and family members. If the court orders the birth record correction, it will send a certified copy of the order to the Department of Health to enable the department to prepare a new birth record. There are some courts that may not send this order directly to the Ohio Department of Health for you. It is a good idea to confirm with the court if they are sending the order, or if you will need to send it to the Department of Health yourself.



Non-Ohio Birth Certificate Gender Marker Changes

Ohio courts only process gender marker changes for Ohio Birth Certificates.

Gender Marker Change on Birth certificates are governed by the State in which you were born.

The process varies depending on the State and County of birth. If you were born outside of Ohio and would like more information, visit the National Center for Transgender Equity Document Center at:

www.transequality.org/documents



Gender Marker Change and Name Change on Ohio Driver's License or State ID

Name Change on Ohio Driver's License of Ohio State ID

To change the name on your Ohio Driver's License, you must first obtain a court order for a legal name change in the Probate Court of the county in which you reside. You will then bring a certified copy of that court order along with your current valid Ohio Driver's License or Ohio State ID to any BMV location. You will have to pay the cost of getting an updated license at this time.



Gender Marker Change and Name Change on Ohio Driver's License or State ID

Gender Marker Change On Ohio Driver's License or State ID

1. You must submit a "Declaration of Gender Change" form to the Ohio Bureau of Motor Vehicles. The form can be found on the Ohio BMV website (www.bmv.ohio.gov/forms) or you can request that it is sent to you by mail by calling the Ohio BMV at (614) 466-2531.
2. The form requires you to provide contact information, date of birth, current Ohio Driver's license or State ID number, and an authorization completed by a physician, psychologist, therapist, nurse practitioner, or social worker who is licensed to practice in the United States that certifies the gender identity of the applicant.
3. The authorization must certify that their practice includes the treatment and counseling of persons with gender identity concerns, including the applicant named above, who is their patient. They must also certify under the penalty of perjury that all information on this form is true and correct.
4. Once the form is completed it must be mailed to:

**Ohio Department of Public Safety
Bureau of Motor Vehicles**

Attn: License Control
P.O. Box 16784
Columbus, Ohio 43216-6784



Gender Marker Change and Name Change on Ohio Driver's License or State ID

5. Upon processing (approximately 7-10 days) you will receive written notification if the gender marker change has been approved. You should then take the written notification to your local BMV to get your new Ohio Driver's License or State ID and surrender your previous ID. Currently, the Ohio BMV only allows for binary (male or female) gender markers on Ohio state IDs and driver's licenses.

6. If you would like to get a federally compliant ID, the following documents need to be presented to a local Ohio BMV office. You can correct your name and gender marker at the same time if you wish, and you will only have to pay for one ID card if you correct both your name and gender marker at the same time. It is okay if your documents are in your former legal name when you go to get your new ID, though some BMV locations prefer that your Social Security card reflects your new legal name. You will need to bring:

- Proof of U.S. Legal Presence (Birth Certificate or Passport)
- Proof of Address
- Social Security Card
- Current State Issued ID or driver's license
- Certified copy of your legal name change order
- Gender marker letter (if applying to also correct gender marker).



Gender Marker Change and Name Change on Ohio Driver's License or State ID

If your driver's license/ID has been expired for more than six months, or if you do not have a copy of your driver's license/ID, visit: <http://bmv.ohio.gov/dl-renewal-current.aspx> for additional requirements.

See here for the fees: <https://www.bmv.ohio.gov/dl-renewal-current.aspx>

Note that this process is separate from a birth certificate correction. This means that even if you do not have a current filing option to fix the gender marker on your birth certificate, you can still correct the gender marker that appears on your state ID.



Social Security Records Gender Marker and Name Change

Even though gender is not listed on your Social Security card, the SSA keeps a record of your gender.

You may update your gender marker before, at the same time, or after you update your name. To apply to change your name and gender with the SSA, you will need all of the following:

- Completed Application for Social Security Card (Form SS-5: <http://www.ssa.gov/online/ss-5.pdf>). On the "Sex" line, you check the box for your updated gender marker.)
- Proof of identity (valid U.S. passport or valid U.S. driver's license or non-driver's state-issued ID)
- Proof of U.S. citizenship or lawful immigration status, like a U.S. passport, birth certificate, or immigration documentation (updated name and gender marker not required)
- Certified copy of name change order from probate court (if applicable)

You will need to take these documents in person to a social security branch near you to submit in person. There is no fee associated with getting a new Social Security Card.



Gender Marker on an Existing or New Passport

The gender you select for your US passport does not need to match the gender on your supporting documentation such as a birth certificate, previous passport, or state ID.

The State Department no longer requires medical documentation to change the gender marker on your U.S. passport.

You can select male (M), female (F), or unspecified or another gender identity (X) as your gender marker if you are applying for a U.S. passport book or passport card.

Please note, although the U.S. government issues passports with the X gender marker, it cannot guarantee your entry or transit through other countries.

Some countries do not recognize the X gender marker. In these countries, you may face entry restrictions. Check with the foreign embassy or consulate in the United States before you travel.

If you do not have a filing option to correct the gender marker on your Ohio birth certificate, you may wish to consider getting a US passport, as it is proof of your US citizenship and can often be used instead of a birth certificate to show your citizenship and lawful presence in the US.



Gender Marker on an Existing or New Passport

Application process varies depending on whether this is your first passport or if you are renewing an old passport. For more information on specific requirements and to schedule an appointment visit the U.S. Department of State at **www.travel.state.gov** or **call 1-877-487-2778 (TDD/TTY: 1-888-874-7793)**

For a passport renewal, there is a \$130 fee for a non-expedited passport book or \$30 for a non-expedited passport card. Fees for a new passport are the same as for renewal passport applications plus a \$35 execution (acceptance) fee.

You can track application status online at **Passportstatus.state.gov**



State and Federal Remedies for Discrimination in Employment, Housing, and Public Accommodation

There is no federal or state law that bans discrimination based on sexual orientation or gender identity in public accommodations, like restaurants, theaters and other businesses. However, local laws where you live may ban this kind of discrimination.

Employment

Employers with 15 or more employees are prohibited by Title VII of the 1964 Civil Rights Act from discriminating on the basis of sex. In *Bostock v. Clayton County*, No. 17-1618 (S. Ct. June 15, 2020),^[1] the Supreme Court held that discriminating against individuals because of their sexual orientation or transgender status violates Title VII's prohibition on discrimination because of sex.

Under Title VII, it is unlawful to subject an employee to workplace harassment that creates a hostile work environment based on sexual orientation or gender identity. Harassment can include, for example, offensive or derogatory remarks about sexual orientation (e.g., being gay or straight). Harassment can also include, for example, offensive or derogatory remarks about a person's transgender status or gender transition.

Note there are exceptions to the law and you should contact an attorney to evaluate your case.

If you believe you have been discriminated against at work, you may take action to protect your rights under Title VII by filing a complaint online with the Equal Employment Opportunity Commission (EEOC) and/or Ohio Civil Rights Commission (OCRC). It is important to note that there are time constraints on filing these types of complaints. You can find information on time limits on the EEOC and OCRC websites.



State and Federal Remedies for Discrimination in Employment, Housing, and Public Accommodation

There is no federal or state law that bans discrimination based on sexual orientation or gender identity in public accommodations, like restaurants, theaters and other businesses. However, local laws where you live may ban this kind of discrimination.

Housing

The Fair Housing Act prohibits discrimination on the basis of sexual orientation or gender identity. Housing providers that receive funding from the Department of Housing and Urban Development (HUD) or have loans insured by the Federal Housing Administration (FHA), as well as lenders insured by FHA, are subject to HUD's Equal Access Rule, which bans discrimination in HUD programs on the basis of sexual orientation or gender identity. Not all landlords are subject to the Fair Housing Act. If you are experiencing discrimination and are unsure if your landlord has to follow the FHA, you should contact an attorney.

Public Accommodation

Protections within the area of public accommodations is an evolving area of law. In a court case called *303 Creative, LLC v. Elenis*, the Supreme Court ruled that a wedding website designer who doesn't want to work with same-sex couples because of their religious beliefs can say no. Even though the law in Colorado says businesses can't discriminate against people based on their sexual orientation, the Court said this designer could refuse service because her beliefs are important to her and her website is a form of her personal expression. It is still not clear what counts as "expressive" services so this area of law is unsettled and still evolving.



Need Support? Reach Out to the Equality Ohio Legal Clinic.

The information provided on this pamphlet does not, and is not intended to, constitute legal advice; instead, all information and content are for general informational purposes only. Information may not constitute the most up-to-date legal or other information. If you have questions about your specific rights or situation, we encourage you to discuss your situation with an attorney.

The Equality Ohio Legal Clinic offers many free legal services, including:

- Name and Gender Marker changes, and
- Representation in cases of LGBTQ+-based discrimination.

In order to be represented by a lawyer from the legal clinic, your income must be within 300% of the federal poverty level.



You can get in touch with our clinic by calling 855-LGBT-LAW, or by filling out an intake form at the QR code to the left, or by visiting www.equalityohio.org/legal-clinic/intake