

NAME CHANGES FOR MINORS IN Massachusetts



What are the legal requirements?

The parents or person with legal custody of the minor must file a Petition for Change of Name with the Probate and Family Court in the county where the minor resides. The court may require that the petitioners give public notice of the petition. *Mass. Gen. Laws ch. 210, § 12-13*

Where should I file the petition?

File the petition in the Probate and Family Court in the county where the minor resides. You can find a listing of the Probate and Family Courts in each county here:

<http://www.mass.gov/courts/court-info/trial-court/pfc/pfc-ch-contacts-gen.html>

What is the process and what forms should I use?

The following documents are required to file a petition for name change:

- Petition for Change of Name: <https://www.mass.gov/files/documents/2018/07/20/cjp-25-petition-to-change-name-of-minor.pdf>
- A certified copy of the minor's birth certificate; and
- Affidavit Disclosing Care and Custody Proceedings: <https://www.mass.gov/files/documents/2017/09/01/ocaj-aff-care-custody.pdf>
- For minors 12 years of age or older, Court Activity and Warrant Release Form: <https://www.mass.gov/files/documents/2018/07/20/cjp34-cari-wms-request-form.pdf>

Use this checklist to ensure you have all the documents required:

<https://www.mass.gov/doc/change-of-name-checklist-for-minors>

The filing fee is \$165. To apply for a full or partial fee waiver, use the following forms:

- Affidavit of Indigency: <http://www.mass.gov/courts/docs/forms/sjc/affidavitofindigency.pdf>; and
- Supplement to the Affidavit of Indigency (if applicable): <http://www.mass.gov/courts/docs/forms/sjc/supplementaffidavit.pdf>

After filing, the court will request a criminal record check from the Office of the Commissioner of Probation. *Mass. Gen. Laws ch. 210, § 13*. The court will also send via mail a Notice of Petition for Change of Name, which will include instructions on providing public notice of the name change request. *Mass. Gen. Laws ch. 210, § 13*. The judge may waive the requirement to publish the name change. Depending on the judge you may have to appear in court or the petition can be approved without a hearing. If a hearing is required you will

National Center for Transgender Equality

transequality.org | ncte@transequality.org | 202-642-4542

receive in the mail a notice of the date on which you must appear in Probate and Family court. At this hearing the judge will ask any questions and if appropriate the name change request will be granted and the court will issue a certificate of the new name.

You may want to request more than one certified copy of the name change order, since certified copies may be required to update the minor's legal name with other agencies.

Does the process require parental consent?

The process does require parental consent. The parent filing to change the name of a minor must have legal custody of the child. Generally, the parents must agree on the name change, but in the case that they do not, the court will decide based on the best interest of the child. For a child born to unmarried parents, the filing parent will need a certified copy of adjudication of paternity or a voluntary acknowledgement of the parent.

If the parent with custody does not live with the child's other parent, then the Petition for Change of Name must be sent by certified mail to the other parent's current address or last known address. If delivery is successful, then you must file the certified return receipt postcard with the court showing that the copy of the Petition for Change of Name was delivered. If the post office returns the Petition for Change of Name as undeliverable, then you must file the returned envelope unopened with the court. In this case, the court may require publication of a citation for the name change in a local newspaper.

Does the process require publication?

This process does require publication, unless the judge waives the petition requirement at their discretion. *Mass. Gen. Laws ch. 210, § 13*. The court will send the petitioner a Notice of Petition for Change of Name via mail, which will include instructions on providing public notice of the name change request.

Generally, you will be required to publish the Notice in a local newspaper. There will be a publication fee that you are responsible for paying (though waivers for the fee may be obtained). You must file proof of payment and of publication with the Probate and Family Court. If you obtain a waiver of the fee, then submit the waiver to the newspaper along with the Notice.

What will the judge consider?

The name change will be granted unless it is inconsistent with public interests. *Mass. Gen. Laws ch. 210, § 12*. If the parents cannot agree on the minor's name, then the judge will decide based on the best interest of the minor. *Petition of Two Minors for Change of Name, 65 Mass. App. Div. 850 (2006)*.

National Center for Transgender Equality

transequality.org | ncte@transequality.org | 202-642-4542

If the judge is deciding whether to grant a name change for a minor according to what is in the best interests of the child, they typically evaluate the best interest of the child by looking at a variety of factors, which may include the child's preference (taking into consideration their age and experience), the length of time a child has used that name, the difficulties, harassment, or embarrassment a child may experience from the present or proposed name, and the motives or interests of the parent.

To demonstrate that the name change is in the best interests of the child, along with the name change petition you may want to submit evidence showing the judge why this is in the child's best interest. Examples of such evidence would be letters from teachers, family, or friends confirming their use of preferred name, letters from providers confirming the child's gender identity, etc.