

NAME CHANGES FOR MINORS IN Montana



What are the legal requirements?

A parent, Guardian, near relative, or friend files Petition for Name Change with the district court of the county where the minor lives. Consenting parents and guardians must file proof of their consent, in which case, the petitioner will not be required to publish notice of the name change. If a parent or guardian does not consent then publication is required, unless the safety of the minor would be jeopardized by such publication. *Mont. Code. Ann. § 27-31-101 (2015)*.

Where should I file the petition?

You may file the petition in the district court of the county where the minor lives. You can find your district court and contact information here: <http://courts.mt.gov/locator>

What forms should I use and what is the process?

The packet for name change for a minor is available here:

https://courts.mt.gov/Portals/189/library/forms/name_chg/child_name_change.pdf. The packet includes instructions, a checklist, and the following forms:

- Petition for Name Change
- Consent to Name Change of Minor Child
- Order Setting Hearing
- Notice of Name Change Hearing of Minor Child
- Order for Name Change

When you give your application materials to the court, provide a self-addressed envelope to the clerk so that the court may mail you information about the date and time of the hearing.

The filing fee will vary by county. You may be able to have the filing fee fully or partially waived by completing an Affidavit of Inability to Pay here:

https://courts.mt.gov/Portals/189/library/forms/prison_forms/filing_fees_district.pdf

If publication is required, the Order Setting Hearing that you receive in the mail will provide instructions on the necessary steps to complete publication and the time, date, and location of the hearing. The minor and the person who filed all the paperwork must appear at the hearing.

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.

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Does the process require parental consent?

Each parent, and if appropriate, legal guardian, must consent to the name change by filling out the Consent to Change form. If a parent or legal guardian does not consent, then publication will be required.

Does the process require publication?

If both parents, and/or legal guardian, if appropriate, do not consent to the name change, then the judge will direct you to publish the Notice of Name Change Hearing in the Order Setting Hearing that is mailed to you. The Notice of Name Change Hearing must be published for four successive weeks in some newspaper published in the county where the minor lives. If a newspaper is not printed in such county, then a copy of the Notice of Name Change Hearing must be posted in at least three public places in the county for four successive weeks.

Publication may be waived if you show probable cause that the safety of the minor is at risk and the court is satisfied that the minor is not attempting to avoid debt or to hide a criminal record. If the minor's name change is for safety reasons, then you may contact the clerk of the court to ensure compliance with local county rules for filing the petition under seal.

What will the judge consider?

Judges have a lot of discretion in granting name changes. Some may have lots of questions and want to see lots of evidence regarding the name change of the child, others may grant a name change as long as there are no objections. Judges may consider 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.

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