

NAME CHANGES FOR MINORS IN West Virginia



What are the legal requirements?

A parent or legal guardian of the child must file a Petition to Change the Name of a Minor. The child needs to have either been born in the county or have lived in the county where the name change is being filed for at least a year. The petitioner (the parent or guardian) needs to sign the petition in front of a notary public (usually the Circuit Clerk). Then you'll need to publish the notice of a name change in a newspaper (see below for information) and have a hearing in front of a judge. At the hearing, you will need to demonstrate you are not seeking the name change for an improper or illegal purpose, like to avoid creditors or arrest, and that the name change is in the best interest of the child.

Where should I file the petition?

You should file the petition in the circuit court or family court in the county where the minor has lived for one year prior to filing or where the minor was born.

You can find an interactive map of the courts by county at:

<http://www.courtswv.gov/public-resources/court-information-by-county.html>.

What forms should I use?

You can find a form created by Legal Aid of West Virginia here:

<http://www.lawv.net/Portals/0/Name%20Change-%20Child%20Petition%20Form.pdf>

Does the process require parental consent?

Yes, a parent or legal guardian must file the petition on behalf of the minor. If only one of the parent is filing the petition, then notice must generally be provided to the other parent. Notice can be provided by having the Sheriff's Department serve the other parent, having a private process server (an adult not party to the case) serve the parent, or having the Circuit Clerk mail notice to the other parent. If the other parent cannot be found, the petitioning parent must show the court that they made a reasonable effort to locate them and give them notice.

Does the process require publication?

Generally, yes. At least ten days before the hearing, the petitioner must publish a notice in a newspaper in the county where the petition was filed. The Circuit Court may provide you with the form you need (a Legal Notice of Publication Change of Name) or you can find it at

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<http://www.lawv.net/Portals/0/Name%20Change%20Child%20Legal%20Notice%20of%20Publica%20tion.pdf>.

In some cases, publishing a name change in a newspaper puts the child's safety at risk. If the name change is being requested to protect the identity of the minor for personal safety reasons, the petitioner may include in their petition a request that the court waive the publication requirement. If the court grants the request, then the court will not require the minor's new name to be published in a newspaper. The court may order that the hearing be closed to the public. §48-25-101. If the hearing is public, then any person who objects may appear at the hearing and can express their opposition. §48-25-102

How much does a name change cost?

The petitioner needs to pay a filing fee when they file the petition. However, petitioners can apply for a fee waiver using the form available here: <http://www.courtsv.gov/legal-community/court-rules/civil-procedure/pdf/Affidavit.pdf>.

The petitioner also needs to pay the newspaper a fee for publishing the name change notice, although they can request that the government cover the publication fees using the form available here:

<http://www.lawv.net/Portals/0/Name%20Change%20Motion%20for%20Payment%20of%20Publi%20cation%20Costs%20Form%20and%20Order.pdf>.

If only one parent or guardian is filing, they may need to pay fees for the Sheriff's Office or a private server to serve notice to the other parent.

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. The judge will generally consider the best interests of the minor 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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What else do I need to know?

West Virginia law restricts parents or guardians with certain criminal convictions from applying for a name change on behalf of their child. A court may not grant a name change if the parent filing the petition (1) is registered as a sex offender, (2) is currently in jail or prison for a felony, or (3) was convicted of first degree murder or kidnapping and released from prison and discharged from parole less than ten years ago. If you fall into any of these categories, note that it may be a misdemeanor for you to apply for a name change (for yourself or on behalf of a minor). If you have a previous felony conviction, you are encouraged to consult a lawyer to review your options.

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.