

# *The Legal Rights of Women in Vermont*

## **Name and Gender Marker Changes**

### **Chapter 9**

This chapter includes information about:

[Name Changes](#)

[Gender Marker Changes](#)

### **Name Changes**

Although it is commonly believed that you can change your name by simply using a new name consistently, and notifying your bank, credit card company and other places you do business, this is not the same as a legal name change. The Social Security Administration, the Vermont Department of Taxes and other governmental agencies may not allow you to register a name change unless you have official documentation in the form of a name change order from the Probate Division of the Vermont Superior Court, a marriage certificate, or a divorce order. You may also apply to the Probate Division of the Vermont Superior Court to change your name and your gender.

**There are three basic ways to change your name in Vermont:**

- file a name change petition in the Probate Division;
- get married and choose to take your spouse's name or hyphenate your names;
- get divorced and choose to change your name back to your maiden name.

### **Probate Division of the Vermont Superior Court**

You may formally change your name by filing a name change petition in the Probate Division of the county where you live. In order to do so you must be at least 18 years old and of sound mind.

When you petition the court for a name change, you must provide copies of your birth certificate and if applicable, your marriage certificate and birth certificates of any minor children so that they can be properly changed. You do not need your spouse's permission to change your name.

### **Marriage**

You do not have to take your spouse's last name when you get married. You can keep your last name, change your last name to your spouse's or hyphenate using your and your spouse's last names. Any of these are legal and have to be respected by anyone you do business with, such as credit card companies and government agencies.

## **Divorce**

You do not need to petition the Probate Division for a name change if you decide to change your name as part of a final divorce order. At that time, you can resume using your maiden name or a former spouse's name. The names of minor children may be an issue to be decided in the divorce, if a request to change them is included in the complaint for divorce.

## **Children**

When a child is born, you may give the child any last name you choose, including your last name, your spouse's last name, a hyphenated name, or even a last name that has no relation to any family member. You do not have to be married to the father of the child in order to give the child his last name.

If you adopt a child and wish to give the child your name you must make that request as part of the adoption decree.

**If you are divorcing and wish to change the names of your children, you must include the request in the complaint for divorce.**

Minor children may have their names changed by the person acting on the child's behalf in the same way that an adult can file a name change petition in the Probate Division. If the child is over 14 years old, the child's name cannot be changed unless the child consents to the change in court. There are a number of factors that the court might consider before deciding whether to agree to change the name of a minor.

You and any other parent or guardian who has an interest in the child must consent to the name change. Any parent or guardian who has not signed a consent form must be given formal notice of the name change petition. For example, if you are divorced from the father of your child, you may not change the child's name without notifying him. He then has the right to object to the name change.

## **Gender Marker Changes**

### **Vermont State ID or Driver's License**

If you are a Vermont resident, you can apply to **change the gender marker on your Vermont state ID or driver's license. It is not required that you amend your birth certificate prior to doing so.**

The Department of Motor Vehicles (DMV) requires that you submit:

- a written request to change the gender marker on your ID document;

- a corrected license application and appropriate fee (at the time of writing, \$15.00); and
- either a letter from your doctor stating that your gender change is complete and the date of completion; or a statement from a doctor, psychologist, or psychiatrist stating that you are irrevocably committed to the gender change, and that one gender predominates over the other. Either statement from a doctor must indicate the target gender, be signed, and must contain the doctor's name, address, jurisdiction where they are licensed and their medical license number. You can find the official DMV policy online at: [http://dmv.vermont.gov/sites/dmv/files/pdf/DMV-Change\\_of\\_Gender.pdf](http://dmv.vermont.gov/sites/dmv/files/pdf/DMV-Change_of_Gender.pdf)

## U.S. Passport

The U.S. Department of State has created a policy to allow people to **change the gender marker on their U.S. Passports. It is not required that you amend your birth certificate prior to doing so.** They require that a DS-11 form be completed and submitted with the normal documentation listed on that form. Additionally, you must provide:

- a photo ID that resembles your current appearance;
- a passport photo that resembles your current appearance; and
- a physician statement that validates that you have either completed or are in the process of treatment for gender transition. That statement must include: the physician's full name; medical license number; issuing jurisdiction of the medical license; address and telephone of the physician; language stating that the physician is your attending physician and that they have a relationship with you; and language stating that you have completed or are in process of appropriate clinical treatment for gender transition to the new gender. Descriptions of specific treatments is not required.

Surgical treatment is not required to change the gender marker. As these policies are changing, you can verify [the official policy from the U.S. Department of State](#), which also provides a template for the Physician's Statement. If you would like to change the name on your passport, this can be done at the same time by submitting the proof of legal name change along with your application.

## Social Security Administration Record

The U.S. Office of Social Security Administration (SSA) [has a process](#) to change your gender marker. **While your Social Security card does not contain a gender marker, your record does. Your gender does not affect your social security retirement benefits, but might affect Medicare and SSI programs, which can deny coverage of services that are inconsistent with gender indicated in**

**the individual's Social Security Record.** These types of denials can usually be resolved.

The SSA also administers several programs to verify a person's identity for employment, public benefits, or other purposes. Some of these systems include gender, and others do not. Some of these programs have begun to eliminate gender from the data that is matched, but some systems still match gender against SSA records. If a person's reported gender does not match SSA records, SSA might report this back to the submitting agency.

To change the gender marker on your Social Security record, the SSA requires that you provide:

- an application to change your gender marker;
- a photo ID proving your identity; and
- one of the following documents: a full-validity, 10-year U.S. passport showing the new gender; a state-issued amended birth certificate showing the new gender; a court order directing legal recognition of change of gender; *or* a medical certification of appropriate clinical treatment for gender transition in the form of an original letter from a licensed physician.

## **Vermont Birth Certificate**

**If you were born in Vermont** and have completed a sexual reassignment, you are eligible to apply for a new "clean" birth certificate that shows only your new name and gender. Whether you change your name by application or by physician's affidavit, the state registrar will "seal" all your documents, which means that they will not be public records. However, you will be able to access them or give permission for others to do so.

### **By Physician's Affidavit**

A Vermont law passed in 2011 does not require you to have had full surgery or hormonal changes in order to be considered fully transitioned. A licensed physician who has treated or evaluated you must sign a notarized statement (affidavit) that you have undergone surgical, hormonal or other treatment appropriate for you for the purpose of gender transition. The statement must include the signature and medical license number of the physician.

Upon receipt of the physician's affidavit, the Probate Division of the Vermont Superior Court will issue an order that your sexual reassignment has been completed. The state registrar will then issue you a new birth certificate.

### **By Application**

You may also apply to the state registrar to have your name changed if your birth

certificate is marked “Court Amended” or otherwise clearly shows it has been amended. **If you were not born in Vermont**, you may still submit a physician’s affidavit to the Probate Division of the Vermont Superior Court for a court order stating that your sexual reassignment has been completed. You will then have to take the court order to the state in which you were born to request a new birth certificate. **It is not known at this time whether another state will honor a Vermont court order for a new birth certificate that is not marked “amended.”** Note: Probate records typically are not sealed. You need to check with the clerk in the probate division if you have concerns about confidentiality of either the name change or the birth certificate correction.

Find the most local and most appropriate agency/organization to help you—go to [VCW’s Resource Directory –Adoption and Probate Courts Section](#)

## Relevant Laws

### Vermont:

Change of Name Law, 15 V.S.A. § 811 et seq.  
Sexual Reassignment, 18 V.S.A. § 5112  
Vermont Rules of Probate Procedure, Rule 80.6

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