



Changing Your Name or the Name of Your Child in Court

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Can I legally change the last name of my child in Family Court?

You can only change the last name of your child in Family Court if there is a **paternity** (pa-TER-ni-tee) case for that child. Paternity cases establish who is the father of a child. If there is no paternity case, you will have to go to Civil or Supreme Court to change your child's last name.

Can I change my child's last name to the last name of his or her father if we were not married when the child was born?

Maybe. If you were not married to the father when the child was born, you will have to prove that he is the father. This is called **establishing paternity**. This would happen in Family Court. Please note: Having the father's name on the birth certificate does not prove that he is the father.



There are two ways you can establish paternity.

- The father can fill out an **Acknowledgement of Paternity** form, which says "I am the father."
- You can petition the court for a **Filiation** (Fil-ee-A-shun) Order. A petition is a written request to the court. A Filiation Order is an order

from the court saying who the father of a child is. If the father agrees to the Filiation Order, it can be easy to get one. If he does not agree, there will be a trial. The court may order a DNA test.

Once I have established paternity, how do I change the name?

Once paternity is established, the court will send the Filiation Order to the **Department of Health and Mental Hygiene (DOHMH)**. The DOHMH will then process the order and send it back to the Family Court. If both parents agree to the name change, the **Family Court CAP Unit** will have both parents sign the name change form, which will be forwarded to DOHMH by the Family Court CAP Unit. About 10 weeks later, DOHMH will send the parents a birth certificate with the new last name. The parents may take the completed form to the DOHMH to expedite the process.

How much does it cost to change my child's name in Family Court?

There is no cost. It is free to change the last name of a child during the course of a Family Court proceeding.

There is, however, a \$65 fee for filing for a name change in Civil Court and a \$210 fee for Supreme Court.



What are the rights of the biological father after a child's name is changed?

Before you asked the court to change the last name of your child, you had to establish paternity. Establishing paternity gives the father the same legal rights and responsibilities to the child that the mother has. This means the father has the right to seek **custody** (KUS-to-dee) or **visitation** (vi-zi-TAY-shun). For more information, see the LIFT guide “Custody and Visitation.” It also means he must provide financial support for the child.

Where do I go if there is a mistake on a birth certificate?

Go to the **New York City Department of Health and Mental Hygiene** (DOHMH), located at 125 Worth Street in Manhattan. If the first or middle name of the child is not correct, they can help.

What if adoption is the reason for the name change?

Go to the adoption clerk in the Family Court in the borough where you live.

If I am between the ages of 18 and 21, how do I change my name?

You can change your last name in Family Court if there is a related paternity case going on. If there is currently no paternity case, you will have to go to Civil or Supreme Court.

If I am over 21, how do I change my name?

Name changes can be requested in either Civil Court or Supreme Court. If you want to get a court order to change your name, you must first file a petition. A petition is a written request to the court. There are two ways to file your petition asking for a name change.

1. You can complete your petition online. Go to www.nycourthelp.gov. Click on “Do-It-Yourself” Forms. If you wish to file in Supreme Court, you can select, “Programs for Statewide Courts.” If you live in New York City and wish to file in Civil Court you can click on “Programs for New York City Civil Court”. Then select the name change option that is right for you. You will be asked to give some basic information about yourself (see below). You will also be asked whether the person whose name is being changed is currently involved in any other court cases
2. You may also go to Civil or Supreme Court in the borough in which you live. Once there, you may ask a clerk for a name change petition which you will then fill out. You can also print a blank petition on the New York State Court website at <http://www.courts.state.ny.us/forms/namechange.shtml> and bring it with you to court.

You must take the petition to either the Supreme Court or Civil Court in the borough where you live.

What is on the petition?

If you decide to create the petition yourself, here are some things that you should know:

- The petition must state the legal reasons for your request.
- The petition must include the name you want to use.
- The petition must include your name, age, date of birth, place of birth, current address, and Social Security number.



More on what is on the petition

- The petition must say whether or not you have been convicted of a crime, and if there are **judgments** or **liens** against you or your property. Liens are when someone has a hold on some of your property until you pay a debt.
- The petition must state whether you have asked for a name change before. If you asked for a name change before, write where, when, and what happened.
- You must sign the petition.

You must also provide the court with information about your **marital status**. Marital status means whether or not you are married.

- If you are married, you must attach a **notarized** (NO-tar-ized) statement from your husband or wife that says he or she knows about your application for a name change. If you do not want to involve your spouse, you must explain why to the court.
- If you are single, write “never married” on the petition.
- If you are divorced, the judge may want a copy of the name change served on your **ex-spouse**. An ex-spouse is a person you were married to. If you do not want to serve your ex-spouse, you must explain to the court why. For information on serving papers, see the LIFT guide “Serving Court Papers.”

If you were born in New York State, you must also submit your original birth certificate. If you were born outside of New York State, the court will accept a copy of your birth certificate.

You must buy an **index** number. Index number means a number for your petition from the court. You can do this in Civil Court or Supreme Court. In Civil Court, it costs \$65. In Supreme Court, it costs \$210. You can pay in cash, or with a check or money order made out to “Clerk of [Civil or Supreme] Court.”

What happens after I file my petition?

A judge will make sure the petition has all of the information that the law requires. If it does, the judge will sign it.

What do I have to do after the judge issues the order?

You have 20 days to **publish** the name change. The court will give you a list of newspapers where you can publish it. The cost depends on the newspaper. It is usually between \$100 and \$170. You have 40 days from the time the judge signed the order to give the court **proof of publication**. This means proof that you printed information about the name change in a newspaper. The proof can be a copy of the newspaper. If you do not want to publish the name change, you must explain why to the court.



What if I am a victim of domestic violence?

Some victims of domestic violence need to keep their name change secret from their abuser. You can ask the court to keep your request for a name change sealed, meaning that the record is not open to the public to see.

If I change my child's name in Family Court, do I have to publish it?

No. Proof of publication is not required for a Family Court name change.

Can I change my child's last name to the last name of my husband, who is not the biological father?

Your husband (also called the **stepfather** of the child) must sign a statement saying that he agrees to the name change and that he is aware that this is not an adoption. The statement must also say that the child will not automatically get an **inheritance** or benefits from the stepfather unless the child is adopted.

If paternity has been established, the biological father will have to be served with the petition. The petition will have to be filed in Civil or Supreme Court. If you live in New York City, you can complete the form online by going to www.nycourthelp.gov and clicking on "Programs for New York City Civil Court" and selecting "Minor Name Change Petition Program."

Does a judge ever deny (turn down) a name change request for a child?

Yes. When considering a name change, the judge will look at the rights of both parents. If one of the parents does not agree to the change, the other parent must have a very good reason why the change is in the **best interest** of the child. The judge will decide if the name change is in the best interest of the child. This means it is the best thing for the child. Some reasons why it may be in the **best interests** of the child are serious abuse by a parent and a parent who has not visited a child for a long time. The judge may also deny a request if the change would interfere with the rights of another person.

Why would a judge deny (turn down) a name change request for an adult?

You are allowed to use any name you want, as long as you are not using the name to **interfere** with the rights of others or to **commit fraud**. Interfere means get in the way of. Commit fraud means fool people.

The judge may deny a name change request if he or she thinks you are asking for it to commit fraud, or the name change would confuse people. The judge will also deny your petition if you have been convicted of a felony (FEL-o-nee) and are in prison. A felony is a **crime** that is punishable by more than one year in jail or prison. In every other situation, if your name change request is made in **good faith** (for honest reasons) and follows the law, the court should grant it.



This document should not take the place of a consultation with a lawyer. LIFT encourages all individuals involved with the Criminal and Family Court systems to consult with a lawyer.