

Brief Services LGBTQ+ Clinic Appointment Overview of Common Issues

Introduction (for all types of appointments)

To begin every appointment, introduce yourself and explain the nature of the brief services clinic. For example:

Hello, my name is [X], and my pronouns are [X]. I am a volunteer lawyer with the VLN's LGBTQ+ Legal Clinic. VLN's clinic provides brief services, which means that during our appointment today, I can serve as your attorney, and I can provide you with legal advice and answer your questions. Everything that we discuss today will be confidential. However, after our appointment, I will no longer be your attorney. If you have any follow-up questions, you can contact an attorney or schedule another appointment with our clinic. Any questions?

Tell the client that you have reviewed their appointment request, and ask the client to identify their goals and concerns. Make sure to validate the client's stressors/fears and ensure they feel heard.

Name Change and Gender Marker Change (born in Minnesota)

To obtain a name change and gender marker change in Minnesota, most people go through the court order process. Here's a rough overview of the process.

Step 1: Make sure the client is eligible for a name change proceeding in Minnesota. An applicant must:

- Have lived in Minnesota for 6 months.
- Be a resident of the county where they are applying for the name change.
- Apply for a proper purpose (i.e., not to defraud anyone or escape law enforcement)

Step 2: File the required documents with the district court in the county where the client lives.

Documents required to be filed are:

- Completed Name Change Application – available [here](#)
 - Tip: If the client would like the Department of Health to change the name and gender marker on the client's birth certificate, make sure they check those options in Question 7 of the Name Change Application.
- Criminal History Check Release – available [here](#)
- Completed Proposed Order (filled out as much as possible) – available [here](#)
 - Tip: we are recommending that clients seeking both a name and gender marker change file two proposed orders: one requesting a gender marker change, and one requesting a name change. That way, the client can use the name change order without outing themselves to government entities that may deny changes to identity documents based on LGBTQ+ status.
- Physician's letter – if client is seeking a gender marker change, sample [here](#)
- Filing fee – depends on county, check [here](#)
 - The client may also be eligible for a fee waiver (available [here](#)). Ask the client if they receive any public assistance (like SNAP, MNCare, SSI). If they do, they will qualify for a fee waiver. Otherwise, the client can still apply for a fee waiver, but will need to provide information about their income and assets.
 - Local orgs have made funding available. Applicants may apply [here](#).

Step 3: Attend the hearing with the judge. The court will send the client a letter telling them the assigned judge and the chambers phone numbers, or in some counties telling you when the hearing is scheduled. Tell the client to make sure to check their mail regularly during this period. The judge's chambers will inform the client if they need to bring any documents to the hearing.

The hearing will most likely be on Zoom. Two adult witnesses (18 years old or older) must also attend the hearing. If the client is married, the spouse must be a witness. Witnesses must:

- Know the applicant for at least one year.
- Can attest to the applicant's identity.

Step 4: Get certified copies of the court order. These will be used to correct the name on other identity documents.

Name Change and Gender Marker Change (born outside of Minnesota)

Clients who are born outside of Minnesota may still seek a name and gender marker change order from a Minnesota court. However, clients should be informed that a Minnesota court order is not binding on another state court or agency. Therefore, another state may refuse to amend a client's birth certificate based on a Minnesota court order.

If the client is born outside of Minnesota, check transequality.org/documents to determine if a court order is required to change a birth certificate in the client's home state. A quick search of the state's Department of Health/Vital Records website is also often helpful.

- If a court order is required, consider whether the client should (or can) seek a court order in their home state.
- If a court order from the native state is not possible or feasible, the client can go ahead and seek a court order from a Minnesota court using the process described above. Clients should be advised that there is always a possibility that the home state will not honor the Minnesota court order.
 - Correct verbiage can be verified by calling the native state's Agency. Some states will accept an order that identifies the individual by name and date of birth, and directs the changes "from _ to _" without explicitly naming the state or agency. Other states have more directive language or specific findings required.

Minor

If the client is a minor (less than 18 years old), then a legal parent, legal guardian, or next of kin must apply for the minor. The applicant must complete and file:

- Completed Name Change Application for a Minor – available [here](#)
- Criminal History Check Release (if the minor is over 10 years old) – available [here](#)
- Completed Proposed Order – available [here](#)
 - All the tips listed above for the application and proposed order apply here.
- Physician's letter – if the minor is seeking a gender marker change
- Filing fee – depends on county, check [here](#)

Parental notification: all legal parents must be notified of a minor's name change application and hearing date. Minn. Stat. § 259.10. If two parents sign the name change application, there's no need

to notify further. But if only one parent applies for the minor, any applicable additional parents generally need to be notified.

- Counties often have specific instructions on how to complete and prove notice. Those instructions control over these general options. We recommend to the client to reach out to the district court clerk for more information.
- Certified mail or personal service are often the two methods counties look for.
- **Certified mail:** if certified mail is used, the return receipt should be brought to the hearing or submitted with other documents in advance, as requested by the Court.
- **Personal service:** if personal service is used, the person serving the application and hearing notice should complete the Affidavit of Service (available [here](#)) and bring it to the hearing or submit it to the Court in advance, if requested by the Court.

Hearing: The hearing is generally the same as for adults, except for two things:

- **Witnesses:** Both the parent/guardian who applied **and** two other adult witnesses must attend the hearing. Those witnesses must have known the minor for at least a year and can testify to their identity. If both parents attend the hearing, only one more witness is necessary.
- **Best interest:** For minors, the Court will consider the best interest of the child in determining whether to grant a minor name change application. Those factors include minor's age, length of time minor has been using the preferred name, impact of the name related to gender identity, history of medical or mental-health counseling, minor's preference and motivation for the name change, and non-applicant parent's reason for withholding consent to name change, if applicable.
 - It may be helpful for the witnesses to address these factors during the hearing.

Felony Record

Only misdemeanors: If the client only has misdemeanor convictions, then the only obligation the client has is to report the name and gender marker change to the Bureau of Criminal Apprehension within ten days of the Court's order granting the change. Minn. Stat. § 259.11(b).

Felony convictions: If the client has a felony conviction from any state, then *before* filing the name change application, the client must submit the name change application to the prosecuting authority that obtained the conviction (in Minnesota, county or city attorney; if the conviction is from another state, then that state's attorney general). See Minn. Stat. § 259.13.

- When the client files the name and gender marker change application with the Court, the client must also file proof of service of the application on the prosecuting authority.
- The prosecuting authority then has 30 days to object to the name and gender marker change application. Typically, they will object. If they do, then the Court cannot grant the name change application unless the Applicant files a motion and shows by clear and convincing evidence that the name change will not be a threat to public safety.
 - We recommend full representation for that motion. A template of that motion is available [here](#).

If the name and gender marker change is granted, then the client must report the name and gender marker change to the Bureau of Criminal Apprehension within ten days of the Court's order granting the change. Minn. Stat. § 259.11(b).

Confidentiality

Name and gender marker change court proceedings are judicial proceedings, which means that documents filed in the case will be publicly accessible. If the client is uncomfortable with this, then they will need to move the Court. There are two approaches:

1. A motion for confidentiality permits the filing of documents confidentially. This is required to keep the case confidential during its pendency. However, the case caption will still appear in MCRO. The filing is quite onerous and we recommend attorney representation to navigate the process.
2. After the conclusion of the case, a motion to seal can be filed to remove the case from MCRO public filings and ensure that it remains confidential in the future. This process makes it difficult even for the Judge to access the file, and thus is not practical until the case is concluded. Full representation is recommended for this step.

To file a motion for confidential treatment **at the same time they file their name and gender marker change application** with the court. The client should file:

- Motion for Confidentiality
- Affidavit
- Proposed Order

Template examples of these documents are available [here](#).

Post-Judgment Confidentiality: A motion to seal will remove the entire proceeding from MCRO. It generally must be done after the conclusion of the case, because then even the Court has limited access. This works best for clients who have already gone through the name change process and want to retroactively make their case confidential. In the affidavit, it may be helpful for the client to explain any changed circumstances that make confidentiality necessary. Document templates are forthcoming.

Social Security Document Changes

Changing one's name with Social Security is usually the first stop for clients who have received a court order changing name and gender marker (that is because it is required to change a name on a drivers' license, which must be completed within 30 days. Minn. Stat. § 171.11.)

- **Gender markers:** Officially, the current Administration is not permitting changes to gender markers with Social Security. However, as of March 2025, Social Security was still processing some requests for gender marker changes. If doing so is a goal for the client, encourage them to consider their risk tolerance and other details of their situation in making the decision to try to do so. Many legal experts recommend waiting for more clarity; others criticize this as not right for everyone.
 - If the client wants to change their gender marker with Social Security, they will need to use the [paper application](#), as the online application does not have an option for gender marker changes.
- **Name change:** Clients can still change their name with Social Security (preferably with an order that only mentions the name change, not a gender marker change). To do so, the client can

start [here](#). Most clients will submit an online application, and then be required to bring identity documents and the court order to a Social Security office.

Passport

Gender marker: The current Administration is not permitting new gender marker corrections to passports. Encourage the client to follow Gender Justice, the ACLU, or other impact litigation orgs on social media or keep apprised of the news for any legal changes to this policy. We will also update our step-by-step document.

Name change: Recommendations depend.

- **If the client has never had a passport:** The client can apply for a passport for the first time like normal. It's recommended to first change the client's name on their birth certificate, given that submitting a birth certificate is usually required for a first-time passport application.
- **If the client has a passport, but has not changed the gender marker on their passport:** The client can apply for a replacement passport and submit the certified court order changing their name. Instructions are [here](#).
 - The client should be advised that the new passport will continue to have their incorrect gender marker.
- **If the client has a passport, and has changed the gender marker on their passport:** This is the trickiest situation. Prior gender marker corrections have a risk of being reverted, but results vary. Usually, gender marker reversions occur when the court order submitted with the passport replacement application has *both* a name change and gender marker change on the order (effectively outing the applicant as transgender).
 - For this reason, clients in this position are *strongly recommended* to submit a certified court order that **only** includes the name change order.
 - Advise the client that there is always a risk that the gender marker on the passport could be reverted. Therefore, the client should consider their own risk tolerance for potentially receiving a passport back with the wrong gender marker.

Birth Certificate Change for Minnesota-born Clients (after a court order)

After receiving a court order changing an applicant's name or gender marker, the client must submit the following to the Department of Health:

- Birth Record Amendment Request (application form and instructions [here](#))
- Supporting identity documents (listed in the instructions)
- Certified court order
- \$40 fee, plus additional fees for copies of the amended birth certificate

Birth Certificate Gender Marker Change for Minnesota-born Clients (Administrative Process)

If a client only seeks a change to their gender marker, they can also apply through the Department of Health for an amended birth record.

- **IMPORTANT:** An amended birth record sought through the administrative process will have a notation on the birth certificate stating "DATA ITEM OTHER THAN THE REGISTRANT'S NAME OR

DATE OF BIRTH WAS AMENDED.” If a client wants a new birth certificate without this notation, they will need to seek a *replacement* birth certificate, which requires a court order.

For the administrative process, the client must submit the following to the Department of Health:

- Birth Record Amendment Request (application form and instructions [here](#))
- Supporting identity documents (listed in the instructions)
- ACT letter
- \$40 fee, plus additional fees for copies of the amended birth certificate

“X” gender marker: If a client wishes to have an “X” gender marker or no gender marker on their birth certificate, they will need to apply for a variance with the Department of Health pursuant to Minn. R. 14.055. Template is available [here](#).

Minnesota Drivers’ License

Gender marker: No court order or evidence required. Clients can self-attest to their gender.

Name change: Clients should first change their name with Social Security. After that is processed, the client should visit a DVS office with:

- Their current drivers’ license
- Certified court order of the name change

Close of Appointment

- Ensure client has completed intake form [online](#) or in local file/paper (signature not required)
- Reiterate to client the nature of brief services—can make another appointment if needed.
- Send forms / links to anything discussed.