

# CHANGING YOUR NAME OR GENDER MARKER UNDER THE GENDER RECOGNITION ACT

## KNOW YOUR RIGHTS



On June 24, 2021 the Gender Recognition Act (GRA) was signed into law, giving New Yorkers the ability to select **M**, **F**, or **X** gender markers on New York State-issued driver's licenses, state IDs, and birth certificates.

The legislation streamlines the process to change the name or gender marker on a New York State-issued driver's license, ID, or birth certificate, and requires numerous public and private entities to honor a person's name change. The following information explains your rights under the new law and explains how to change the name or gender marker on a New York identity document.

### **You have the right to New York identity documents that match your gender identity.**

Starting May 27, 2022, you have a right to select an M, F, or X gender marker on a New York State driver's license or state ID. If you were born in New York City, you have had the ability to select M, F, or X on birth certificates since 2018, and if you were born elsewhere in New York, you have had this option since July 2020. Parents also have the right to change their own name on their children's birth certificates and to identify themselves as "mother," "father," or "parent."

### **When does the law go into effect?**

The X gender marker for driver's licenses is effective beginning May 27, 2022. All other elements of the bill go into effect December 21, 2021.

### **What documentation is required to change my name or gender marker on a New York identity document?**

New York operates on a "self-attestation" standard, which means that you can check a box to identify your gender. There is no doctor's note, medical testimony, or court order required. You do not need to have had gender-affirming surgery in order to change the name or gender marker on a New York identity document.

### **If I was born outside of New York State, can I change my name and gender marker?**

If you were born outside of New York State and you have a New York driver's license or state ID, or a child or children who were born in New York and have New York birth certificates, you can change your name and gender markers on those documents using the same process as any other New Yorker. If you have a birth certificate issued by another state that requires a court order to change it, you can ask a New York court to issue such an order.

### **If I am a minor, can I change the name and/or gender marker on my birth certificate?**

If you were born in New York City, and you are over 18, you may request to change your name or gender marker. If you were

born in New York City and are under 18, you must involve a parent or guardian in these decisions. If you were born elsewhere in New York, and are 17 or older, you may request to change your gender marker, and if you are over 18, you can request to change your name. A parent or guardian must request a gender marker change for anyone under 17 and a name change for anyone under 18.

### **Who must honor a name change?**

The state or any city, county, town, or other municipality within the state must update the name on any document issued or maintained by the state, city, county, town, or other municipality. This means that school records for current and past students, marriage certificates, and other archival records must be updated upon request. The same obligation applies to private entities within the state.

### **What if an entity does not honor a name change?**

Failure to honor a name change based on a name change order or other documentation is a violation of the New York Human Rights Law and the New York Civil Rights Law, and you can file a complaint with the New York State Division of Human Rights, <https://dhr.ny.gov/complaint>, or any other applicable enforcement agency.

### **Is there a publication requirement?**

**NO**

The GRA eliminated any publication requirement associated with a name or gender marker change.

### What notice of a name change is required?

If you owe spousal or child support, you will be ordered to notify the court with jurisdiction over your support orders. Similarly, if you have been convicted of certain felonies, the court issuing a name change order must notify the State Division of Criminal Justice Services. If the court wants to require other forms of notice of a name change, it must inform you of the rationale for the requirement in writing. You can challenge these requirements. You cannot be required to notify ICE, Customs and Border Protection, U.S. Citizenship and Immigration Services, or any other immigration agency.

### Does anyone have to consent to a name change?

If you are under 18 or otherwise lack legal capacity, your parent, guardian, or legal representative must consent to a name change request. A court cannot condition a name change on spousal consent or consent from any other person.

### Do I have to show specific instances of violence or a personal history of threats to my safety to have records of my name or gender marker change protected from disclosure?

**NO**

The court will consider the totality of the circumstances in determining whether to seal (or protect from disclosure) a name change and must pay particular attention to the risk of violence or discrimination for people who are transgender or who are survivors of domestic violence. You can request that your records be sealed, and the court can offer to seal the records voluntarily. The court is required to seal identifying information related to gender marker changes and to prevent their inadvertent disclosure.

### Do the rights in the GRA apply only to transgender, gender non-conforming, and nonbinary individuals?

**NO**

The rights in the GRA apply to anyone seeking to change their name regardless of the reason for the name change.

### Can I get an X gender marker on a U.S. passport?

The GRA applies only to New York identity documents and does not apply to U.S. passports. But the Biden Administration recently announced it would move to a self-attestation standard for changing the name and gender marker on a U.S. passport. The administration also announced it will eventually offer an X gender marker on passports. The timing for these changes is not yet known.

You can ask the Biden administration to allow X gender markers on all other federal ID documents here: <https://action.aclu.org/petition/they-people-access-accurate-ids-now>.

### HOW DO I CHANGE THE NAME OR GENDER MARKER ON MY NEW YORK IDENTITY DOCUMENT?

Below are the necessary instructions and forms to change your name and gender marker on New York documents.

#### Instructions to update a New York State birth certificate:

[https://www.health.ny.gov/vital\\_records/gender\\_designation\\_corrections.htm](https://www.health.ny.gov/vital_records/gender_designation_corrections.htm)

#### Instructions to update a New York City birth certificate:

<https://www1.nyc.gov/site/doh/services/certificate-corrections.page>

#### Form to correct the name or gender marker on a New York State birth certificate:

<https://www.health.ny.gov/forms/doh-5305.pdf>

#### Form to correct the name or gender marker on a New York City birth certificate:

<https://www1.nyc.gov/assets/doh/downloads/pdf/vr/bcorrect.pdf>

#### Form to correct the name or gender marker of a parent on a New York State birth certificate for a person 16 years old or younger:

<https://www.health.ny.gov/forms/doh-5721.pdf>

#### Form to correct the name or gender marker of a parent on a New York State birth certificate for a person 17 years old or older:

<https://www.health.ny.gov/forms/doh-5722.pdf>

#### New York State self-attestation form:

<https://www.health.ny.gov/forms/doh-5303.pdf>

#### New York City self-attestation form:

<https://www1.nyc.gov/assets/doh/downloads/pdf/vr/birth-certificate-gender-self-attestation.pdf>

