



## Frequently Asked Questions: Birth Certificate Gender Marker Update Process

### Process for Getting a New Birth Certificate

#### What is the process for updating my gender marker with an updated name and gender marker?

To update your birth certificate, please submit the following to the Virginia Office of Vital Records:

- A Completed [Changing Sex Designation form \(Form VS42\)](#) with information from a licensed healthcare provider attesting you have received clinically appropriate treatment for a gender transition. You no longer need a court order or proof of medical procedures to update the **gender marker** on your Virginia birth certificate.
- [On the application](#), write in the gender marker (male or female) you want listed on your birth certificate (not the sex assigned at birth). Select “Yes” on the field asking if amendments/corrections are needed. For the amendment code, simply select “COG” (Change of Gender).
- If you are also updating your legal name on the birth certificate you will need a certified copy of your Name Change Court Order.
- Click here for more information from the [Office of Vital Records](#):
  - Copy of a valid ID from **requestor**
  - \$10 administration fee to generate the new birth certificate
  - \$12 for each certified copy

#### When I file to update my gender marker or name on my Virginia birth certificate, will I have to prove my gender to someone or need additional documentation?

The only document you need to submit is a 1-page form signed by your healthcare provider. Have [this form](#) filled out by your healthcare provider who can attest you’ve received clinically appropriate treatment for a gender transition. You do not need a court order or proof of any medical procedure to update the gender marker on your Virginia birth certificate. What clinically appropriate treatment looks like is between you and your healthcare provider, but could include one or more of the following: change in gender expression or gender role, counseling, hormone replacement therapy, gender-confirming surgeries, or other treatments. The form does not ask the provider to specify the type of treatment you have had.

#### Do I still need a court order to update my gender marker on my birth certificate?

You no longer need a court order to change the gender marker on your Virginia birth certificate.

### **Do I still need a court order to update my name on my birth certificate?**

You will still need a court order to update your name on your birth certificate and on any other identity documents. Except in the case of marriage (which only changes last name), a court order is required for any person (cisgender or transgender) to change their legal name. Check out [Trans Law DC's Virginia guide](#) for more information on the name change process.

### **What will the process look like for minors?**

[Click here](#) to read the National Center for Transgender Equality's FAQ sheet on the legal name change process in Virginia for minors.

For the [gender marker change process](#) with the Office of Vital Records, it is the same for minors as for adults, except that the parent or legal guardian must fill out the application.

### **What is different about this process from before?**

You no longer need a court order or proof of medical procedures to update your gender marker in Virginia. Instead, Virginia Vital Records will accept a 1-page form from your healthcare provider as proof of your gender marker. In addition, you will receive a **new** birth certificate with your updated name and/or gender marker only. The new birth certificate will not list your old information. This ensures that transgender and non-binary people are no longer outed by former information listed on their updated birth certificates. Your new birth certificate will only list the current legal name and the correct gender marker.

### **Can I update my birth certificate with a non-binary gender marker?**

The new law does not allow for a non-binary gender marker option. You will have to choose either a male or female gender marker. Hopefully a third, non-binary option will become available in the future.

### **How is the current process impacted by the COVID-19 pandemic?**

Many (if not all) Virginia courts are handling name changes right now. Call the court of your jurisdiction for details on how you can file and what is needed. You can also contact [Whitman-Walker Health Legal Services](#) for assistance. They have up-to-date information on the Northern Virginia jurisdictions (and more). For an intake, call 202-939-7630 (English/Spanish intake line).

You can mail in the notarized name change petition and receive the approved order by mail in most jurisdictions - no need to go to the courthouse! The process to actually update your birth certificate with the Office of Vital Records can also be handled by mail only.

## **General Questions**

### **What if I have a birth certificate from another state or country?**

Virginia can only change Virginia birth certificates. If you live in Virginia but your birth state requires a sex change court order, you can petition a Virginia court to issue a sex change court order. Once you have a sex change order, you can submit this to your birth state's vital records office to request an updated birth certificate. For more information on your birth state's requirements, [go here](#). To get a court order in Virginia for an out-of-state birth certificate, you should contact a lawyer or attend a free legal clinic hosted by the [Virginia Equality Bar Association](#) or [Whitman-Walker Health Legal Services](#) to discuss your options.

Birth certificate changes are determined by the place where you were born. However, if you are a naturalized US Citizen, you should be able to get your correct gender on both your naturalization or citizenship certificate and your US passport, and use one of those for most purposes. You can find information [on this here](#).

### **How will an updated gender marker be used by local law enforcement, including jails?**

Law enforcement and corrections agencies are not required to address, search, house, or otherwise treat individuals according to the gender on their state ID. Increasingly, agencies across the country recognize that the best practice is to treat individuals according to their gender identity. In determining whether someone should be housed with women or men, or should be searched by female or male staff, the best practice is to start by asking the individual what they believe would be safest for them. For more information, see the following resources from the National Center for Transgender Equality:

- [Police Department Model Policy](#)
- [Policies to Increase Safety and Respect for Transgender Prisoners](#)

### **Sources:**

[National Center for Transgender Equality](#)

[Virginia Equality Bar Association](#)

[BaryLaw](#)

[Whitman-Walker Health Legal Services](#)

[Virginia Department of Motor Vehicles](#)

[Virginia Department of Health's Office of Vital Records](#)

[AFAR](#) magazine

## **Collaborators**

Thank you to [Whitman-Walker Health Legal Services](#) and for offering their expertise to review and provide feedback on this information sheet.

## **About Equality Virginia**

Founded in 1989 as Virginians for Justice, Equality Virginia (EV) is the leading advocacy organization in Virginia seeking equality for lesbian, gay, bisexual, transgender, and queer (LGBTQ) people. EV is building a fully inclusive Commonwealth by educating, empowering, and mobilizing Virginians to ensure all LGBTQ people are free to live, love, learn, and work.

For more information, check out [www.equalityvirginia.org](http://www.equalityvirginia.org) or reach out to [info@equalityvirginia.org](mailto:info@equalityvirginia.org).

**DISCLAIMER: This document provides general information only and should not be understood as providing legal advice regarding any person's specific situation. For guidance on your particular situation, you must consult a lawyer.**