

Guide to Legally Changing Your Name & Gender While Incarcerated



In 2017, the Name and Dignity Act (SB 310) was signed into law! This policy was made possible because of work by transgender people inside of prisons and jails. You told your stories, wrote testimony, and gave feedback on the bill language. It used to be very difficult to legally change your name and/or gender while incarcerated in California. The new law, which went into effect September 1, 2018, removes barriers to obtaining a legal name and gender marker change while incarcerated by allowing individuals to directly petition the courts for a name and/or gender change. This means you do not need to ask permission of the warden at a prison, or the sheriff's department at a jail, before filing paperwork with the courts. It also requires the California Department of Corrections and Rehabilitation (CDCR) and county jails to use your new legal name and to refer to your prior name as an alias.

This law honors the dignity and well-being of transgender people currently inside California prisons and jails, who are subject to daily violence and unsafe conditions, by blocking staff's ability to misgender and misname them. It will also help with the re-entry process, since trans people will now have an opportunity to change their name and gender BEFORE leaving prison, resulting in one less obstacle to accessing housing, employment, healthcare, and benefits upon release.

The information in this document is meant to provide guidance only. It should not be considered legal advice. This document only provides information on the name and gender marker change process for people 18 years of age and older. Please also note that the court process for changing one's name and gender typically takes at least two months. If you have reason to believe you will not be staying at the same facility for at least the next two months, you may want to wait to file your court paperwork. Moving facilities may delay the process of having your paperwork approved or stop it altogether.

Please note that legally changing your name and gender is not going to affect your housing classification within a prison or jail system.

How It Works

If you are in prison or sentenced to county jail, you have the right to petition the court to obtain a name and/or gender change, which can be an important step to updating identity documents. Effective September 1, 2018, an incarcerated transgender person seeking a name and/or gender change court order no longer needs approval from the warden of their facility, Regional Administrator, or Corrections Case Manager before filing a petition with the court. An incarcerated individual can directly file a petition with the court through the same process used by a person who is not incarcerated.

In short, the process involves filling out and submitting the correct court documents (with filing fee or waiver) to the Superior Court in the county where you are incarcerated, notifying your respective department (CDCR or the sheriff's department) that you are filing with the court, and receiving a court order for your name and/or gender change. Below is a very brief overview of the process.

To file a petition you must:

1) Access & fill out the court documents

Forms: You will need to decide which set of forms you need, depending on whether you want to change only your name, only your gender marker, or your name and gender marker.

- Change of name only (NC-100 series): this includes forms NC-100, NC-110, NC-125, NC-130, and CM-010;
- Change of name and gender (NC-200 series): this includes forms NC-200, NC-110, NC-125, NC-230, and CM-010;
- Change of gender only (NC-300 series): this includes forms NC-300, NC-330, and CM-010. (Note that if you are only changing your gender, you are NOT required to notify your facility as described elsewhere in this guide.)
- Fee waivers (FW-001 and FW-003 and your trust account balance).

Cost: As of 2018, the fee for filing a petition in most counties is \$435. (Exceptions include San Francisco and Riverside counties, where the fee is \$450.) **The court does offer a fee waiver, which means you do not have to pay any of the fees.** To obtain this waiver, you must fill out forms FW-001 and FW-003, which should be available at the library at your prison or jail, and file them with the rest of your petition. If you are in CDCR, you will also need to attach a certified copy of your trust account balance with the fee waiver forms. Be sure to include your

Inmate Identification Number with the trust account balance. File a form 22 to Inmate Trust to request a copy of your trust account.

Instead of a fee waiver, you can also pay a partial filing fee of 20 percent of either the average monthly deposits to your trust account OR the average monthly balance in your account, for the six-month period preceding the application. After you have made this partial payment, you must then make monthly payments of 20% of the preceding month's income credited to your account, until you have paid the full amount of the court filing fee.

The fees collected by the court cannot exceed the amount of the fees that would be charged to a person who is not incarcerated.

Additional Notes: Because of SB 179, another new law passed in 2017, you no longer need to provide a physician's affidavit (a verified statement from a doctor) to obtain a legal gender change. Instead, you must simply sign a personal declaration on form NC-200 or NC-300 stating that your request is to "conform your legal gender to your gender identity." As of September 1, 2018, you are able to request a legal change of gender to "male," "female," or "nonbinary."

Transgender Law Center has assembled step-by-step instructions for filling out name and/or gender change court forms, as well as sample filled-out forms. We are happy to mail them to anyone; please write to TLC at the address below.

Give Notice: When you file your petition for a name change or a name and gender change with the Court, you must also notify the prison or jail, as explained below.

2) Submit the petition

Submit the petition for a name change (with all related paperwork) to the Superior Court in the county where you reside (meaning the county where you are currently incarcerated). This means you must file your paperwork in the county where you are incarcerated, typically by mailing it to that court's clerk's office. If there is more than one Superior Court courthouse in your county, name change petitions are typically filed at the location that handles "unlimited civil" petitions. You can find a partial list of addresses of clerk's offices in the **List of Courts and Addresses** section at the end of this resource. You can also find court address information in your facility's law library or in the Transgender Law Center's "ID Please" resource (you are welcome to write to TLC to request a copy).



3) Provide a copy

At the time you submit your petition to the court, you must also provide a copy of the petition for a name change to the appropriate department. This will differ depending on if you are in jail or prison.

Jail: For those in the custody of a county jail, you must provide jail officials a copy of the papers you file with the court at the same time you file them. To find out what your Sheriff's Department's notification process is, you can start by asking custody staff or a counselor within your facility. If you are unable to get information on the process from a staff person, you can contact the ACLU for help.

Prison: For those in the custody of, or on parole within, *the Department of Corrections and Rehabilitation (CDCR)* the process of notification is as follows:

- You must fill out and submit a CDCR Form 2010 (06/18), Notice of Legal Name Change Petition, with a copy of all documents submitted to the court, to the Warden or Regional Parole Administrator (RPA) at the time the petition is submitted to the court. CDCR Form 2010 (06/18), Notice of Legal Name Change Petition, can be found in the law library.
- After you have submitted your petition for a name change to the court, the court will mail you a receipt and an Order to Show Cause. You must provide a copy of the Order to Show Cause (OSC) to the Warden or RPA within 3 calendar days of receipt.
- We recommend that you make a copy of your petition and CDCR Form 2010 before sending it to the court and mark the date when you sent it to the Warden or RPA. This will reduce likelihood of the agency claiming to have not received the notice.
- CDCR staff will then review the forms within 10 business days and send their review and recommendation to the Warden or RPA. The RPA will review the staff recommendation within 3 business days. If CDCR has an objection to the name change that is based on security risks, its lawyers can make those objections to the court.

4) Attend a hearing

The Court will schedule a hearing on your petition if someone files an objection to it. If you receive notice of a hearing date and time from the Court, you should immediately notify staff at your facility to ensure that you are able to participate in the hearing, either in person or telephonically. At the hearing, you should be prepared to briefly explain why you are seeking to change your name, and to address whatever objections have been raised.

5) Receive your court order

If the Court grants your petition, you will receive a court order granting your name change. It is a good idea to request at least one extra certified copy of your court order for your records; these normally cost about \$25, but should be free if you have received a fee waiver.

If you are under the custody of CDCR, you should give a copy of the court order to the Correction Case Manager (CRM) at your facility. The CRM must update your ID in your C-file within 5 business days of receiving the court order. Once your new name is changed within the facility's database an updated identification card reflecting your new name should also be provided to you. You will be charged for the cost of a replacement ID card unless CDCR considers you "indigent."

Similarly, if you are in a county jail, you should give a copy of the court order granting your name change to staff there. Typically you should submit the order in the same way you submitted a copy of your petition earlier in this process. After the jail has received your court order, you should receive an updated identification card or wristband.

If your new name is not updated in the facility's records, or you are not issued a new identification card reflecting your new name, please contact TGI Justice Project. All your documentation with the prison or jail must be updated to reflect your new name, and prior names should **only** be listed as an alias.

Note also that in preparation to be released, you will also need to provide copies of your court order to other institutions like the DMV, Social Security, or your bank, to get them to change your name in their records. More information about updating California and federal documents to reflect your new legal name and/or gender is available in Transgender Law Center's guide "ID Please"; write to TLC to request a copy.

Will my petition be granted?

Although people in California generally have the right to legally change their names, courts sometimes deny a petition if someone else objects. This can happen for non-incarcerated as well as for incarcerated people, but for people in CDCR custody, there is a more formalized structure that wardens and RPAs can use to request that an objection is filed with the Court.

The process for a Warden or RPA to object to a petition includes forwarding the CDCR Form 2010, memorandum, petition, OSC, and any supporting documents to the Office of Legal Affairs (OLA) for review.

The OLA reviews the recommendation within 5 business days to determine if an objection is warranted. If the OLA determines the objection is warranted, OLA will file a formal objection with the Court.

A petition may also be denied at the discretion of the judge. Some examples where we have heard of this happening are if the name you are seeking to change to is deemed inappropriate such as a swear word, a sacrilegious word, a word that is seen as obscene, a name the judge thinks you are adopting in order to commit fraud, etc.

Unfortunately, if you are required to register under Penal Code Section 290, it is very likely your petition will be denied. If your petition is approved, please look into notification requirements or contact the TGI Justice Project for support.

What happens if my petition is denied by the court?

If your petition for a name/gender change is denied by the court, you will get notification from the court and a copy of the denial court order will be included in your prison or jail file.

If you are denied, you may re-petition the court again at a later date.

Questions or requests for assistance:

If you have questions, please contact:

Transgender, Gender Variant, and Intersex (TGI) Justice Project

370 Turk St #370

San Francisco, CA 94102

American Civil Liberties Union (ACLU) of California

Attention: LGBTQ Team

1313 West 8th Street #200

Los Angeles, CA 90017

Transgender Law Center

PO Box 70976

Oakland, CA 94612

Phone: 510-380-8229

List of courts and addresses:

Generally speaking, it should be possible to file your petition for a name and/or gender change with the court by mail. Below is a list of some of the CDCR facilities we regularly hear from, followed by the county that facility is located in and the phone number and address of the court where your petition may be sent.

Some counties require extra forms; for the counties that do, we have tried to list those below. If you are in another county, need a copy of one of the forms listed below, or run into problems filing by mail, please contact Transgender Law Center, TGI Justice, or the ACLU.

Atascadero State Hospital

San Luis Obispo County
Civil & Family Law Branch
1035 Palm Street, Room 385, San Luis
Obispo, CA, 93408
805-781-5677

California Health Care Facility

San Joaquin County
Superior Court of California – San Joaquin
Civil Division
180 E Weber Ave, Ste 200, Stockton, CA
95202
209-992-5693

California Institute for Men

San Bernardino County
San Bernardino District – Civil Division
247 W 3rd St, San Bernardino, CA 92415-
0210
909-708-8678

California Institute for Women

Riverside County
Riverside Historic Courthouse
4050 Main Street, Riverside, CA 92501
(requires an extra form: "Certificate of
Counsel (Local Form RI-C1032)"
(there are several locations that handle name
change petitions in this county; this is the one
for CIW)
951-777-3147

California Medical Facility

Solano County
Old Solano Courthouse, Civil Clerk's Office
580 Texas Street, Fairfield, CA 94533
707-207-7330

California State Prison – Los Angeles County

Los Angeles County
Michael Antonovich Antelope Valley
Courthouse
42011 4th Street West
Lancaster, CA 93534
(requires two extra forms: "Civil Case Cover
Sheet Addendum and Statement of Location
(LACIV-109)" and "Name Change Criminal
History Assessment (LACIV 226)"
(there are several locations that handle name
change petitions in this county; this is the one
for CSPLAC)
661-483-5797

California State Prison – Solano

Solano County
Old Solano Courthouse, Civil Clerk's Office
580 Texas Street, Fairfield, CA 94533
707-207-7330

Central California Women's Facility

Madera County
Main Courthouse
200 South "G" Street, Madera, CA 93637
559-416-5525

High Desert State Prison

Lassen County
Hall of Justice
2610 Riverside Drive, Susanville, CA 96130
(requires an extra form: "Name Change
Criminal History Assessment"
530-251-8205, ex 152

Kern Valley State Prison

Kern County
Metropolitan Division – Bakersfield
1415 Truxtun Ave, Bakersfield, CA 93301
661-868-7205

Mule Creek State Prison

Amador County
Amador County Superior Courthouse
500 Argonaut Lane, Jackson, CA 95642
209-257-2603

Pleasant Valley State Prison

Fresno County
BF Sisk Courthouse
1130 O Street, Fresno, CA 93721-2220
559-457-1900

Richard J. Donovan Correctional Facility

San Diego County
Hall of Justice
330 W Broadway, Room 225, San Diego, CA
92101
(there are several locations that handle name
change petitions in this county; this is the one
for RJDCF)
619-450-7275

Salinas Valley State Prison

Monterey County
Monterey Courthouse
1200 Aguajito Road, Monterey, CA 93940
(requires an extra form: "CLETS Name
Change Info - CI-140"
831-647-5800

San Quentin State Prison

Marin County
Hall of Justice
P.O. Box 4988, San Rafael, California 94913
415-444-7040

Substance Abuse Treatment Facility

Kings County
1640 Kings County Drive
Hanford, CA 93230
559-582-1010

Wasco State Prison

Kern County
Metropolitan Division – Bakersfield
1415 Truxtun Ave, Bakersfield, CA 93301
661-868-7205